

irrespective of the actual consequences of the infringement, with the result that the court is required to rule on an action brought against that act, without being able to consider referring the case back to the administrative authority for the proper termination of the procedure?

⁽¹⁾ OJ 1992 L 302, p. 1.

⁽²⁾ OJ 1993 L 253, p. 1.

Request for a preliminary ruling from the Administrativen sad Sofie-grad (Bulgaria) lodged on 21 January 2013 — Global Trans Lodzhistik OOD v Nachalnik na Mitnitsa Stolichna

(Case C-30/13)

(2013/C 108/33)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofie-grad

Parties to the main proceedings

Applicant: Global Trans Lodzhistik OOD

Defendant: Nachalnik na Mitnitsa Stolichna

Questions referred

- Does Article 243(1) of Council Regulation (EEC) No 2913/92 ⁽¹⁾ of 12 October 1992 establishing the Community Customs Code, if it is interpreted in conjunction with Article 245 of that regulation and the principles of the right of defence and *res judicata*, permit a national provision like Article 220 and Article 211a of the Zakon za mitnitsite (Law on customs) under which more than one decision of a customs authority, which fixes an additional customs debt with a view to its subsequent recovery, may be challenged, even where, under the circumstances of the main proceedings, a final decision within the meaning of Article 181a(2) of Commission Regulation (EEC) No 2454/93 ⁽²⁾ of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 could be adopted in order to fix that customs debt?
- Is Article 243(2) of Regulation No 2913/92 on the right of appeal to be interpreted to the effect that it does not provide that a final decision within the meaning of Article 181a(2) of Regulation No 2454/93 must first be the subject of an administrative review in order for judicial proceedings to be permitted?
- Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings, to

the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules does not constitute a final decision within the meaning of that provision, but is merely part of the procedure for the adoption of the final decision? Failing that, is that provision to be interpreted, under the circumstances of the main proceedings, to the effect that the decision adopted with the abovementioned procedural defects is directly subject to judicial review and the court must give final judgment on the action brought against it?

- Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings and having regard to the principle of legality, to the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules is null and void on account of a material procedural defect which is comparable to an infringement of an essential procedural requirement, non-compliance with which results in the nullity of the act irrespective of the actual consequences of the infringement, with the result that the court is required to rule on an action brought against that act, without being able to consider referring the case back to the administrative authority for the proper termination of the procedure?

⁽¹⁾ OJ 1992 L 302, p. 1.

⁽²⁾ OJ 1993 L 253, p. 1.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 29 January 2013 — Martin Grund v Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

(Case C-47/13)

(2013/C 108/34)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Martin Grund

Defendant: Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

Interested party: Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

Question referred

Is agricultural land permanent pasture within the meaning of Article 2(2) of the regulation ⁽¹⁾ if used currently and for at least five years for the cultivation of grass or other herbaceous forage but during this period the area has been ploughed and instead of the previous herbaceous forage (in this case clover) another herbaceous forage (in this case field grass) sown, or do such cases constitute a crop rotation precluding the creation of permanent pasture?

⁽¹⁾ Council Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).

Request for a preliminary ruling from the Tribunal Central Administrativo Norte (Portugal) lodged on 4 February 2013 — Marina da Conceição Pacheco Almeida v Fundo de Garantia Salarial, IP, Instituto da Segurança Social, IP

(Case C-57/13)

(2013/C 108/35)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Norte

Parties to the main proceedings

Appellant: Marina da Conceição Pacheco Almeida

Respondent: Fundo de Garantia Salarial, IP, Instituto da Segurança Social, IP

Question referred

Is European Union law, in the specific context of a guarantee covering wage claims in the event of the employer's insolvency, in particular Articles 4 and 10 of Directive 80/987/EEC, ⁽¹⁾ to be interpreted as precluding a provision of national law which guarantees only claims falling due in the six months preceding the initiation of insolvency proceedings against the employer, even where the employee has brought an action against that employer before the Tribunal do Trabalho (Labour Court) with a view to obtaining a judicial determination of the amount outstanding and an enforcement order to recover those sums?

⁽¹⁾ Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer. (OJ 1980 L 283 p. 23).

Action brought on 7 February 2013 — European Parliament v European Commission

(Case C-65/13)

(2013/C 108/36)

Language of the case: French

Parties

Applicant: European Parliament (represented by: A. Tamás and J. Rodrigues, acting as Agents)

Defendant: European Commission

Form of order sought

— Annul Commission Implementing Decision [2012/733/EU] of 26 November 2013 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES;

— order the European Commission to pay the costs.

Pleas in law and main arguments

In support of its action for annulment, the European Parliament raises a single plea in law, alleging infringement of Article 38 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union. ⁽¹⁾ By adopting the contested decision, the Commission has misused the powers conferred upon it by the European Union legislature.

Article 38 of that regulation confers only implementing powers on the Commission, the limits of which are set out in Article 291 TFEU. In the view of the Parliament, that article must be interpreted as meaning that it precludes the adoption of acts of general application which supplement certain non-essential elements of the legislative act. Only legislative acts or delegated acts within the meaning of Article 290 TFEU may supplement non-essential elements of a basic act.

The act adopted by the Commission, being an implementing act within the meaning of Article 291 TFEU, also supplements certain non-essential elements of Regulation (EU) No 492/2011. Accordingly, the Parliament submits that, if it is necessary to supplement non-essential elements of Regulation (EU) No 492/2011, the Commission, in the absence of powers to adopt delegated acts within the meaning of Article 290 TFEU, ought to have made a proposal to the legislature supplementing or amending the basic act.

⁽¹⁾ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).