

Questions referred

1. Does Article 4 of the Copyright Directive⁽¹⁾ govern the answer to the question whether the distribution right of the copyright holder may be exercised with regard to the reproduction of a copyright-protected work which has been sold and delivered within the European Economic Area by or with the consent of the rightholder in the case where that reproduction had subsequently undergone an alteration in respect of its form and is again brought into circulation in that form?
2. (a) If the answer to Question 1 is in the affirmative, does the fact that there has been an alteration as referred to in Question 1 have any bearing on the answer to the question whether exhaustion within the terms of Article 4(2) of the Copyright Directive is hindered or interrupted?
 - (b) If the answer to Question 2(a) is in the affirmative, what criteria should then be applied in order to determine whether an alteration exists in respect of the form of the reproduction which hinders or interrupts exhaustion within the terms of Article 4(2) of the Copyright Directive?
 - (c) Do those criteria leave room for the criterion developed in Netherlands national law to the effect that there is no longer any question of exhaustion on the sole ground that the reseller has given the reproductions a different form and has disseminated them among the public in that form (judgment of the Hoge Raad of 19 January 1979 in *Poortvliet*, NJ 1979/412)?

⁽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).

Request for a preliminary ruling from the Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture (Italy) lodged on 25 July 2013 — Emmeci v Cotral

(Case C-427/13)

(2013/C 325/19)

Language of the case: Italian

Referring court

Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture

Parties to the main proceedings

Applicant: Emmeci Srl

Defendant: Cotral SpA

Questions referred

1. Must Article 56 of Directive 2004/17/EC⁽¹⁾ be interpreted as meaning that it is not permissible for the national legislature to allow contracting authorities to prevent competitors, during the final bid phase, from viewing their rankings or the bids made by other economic operators, and to postpone disclosure of that information until the end of the auction?
2. Do Article 56 of Directive 2004/17/EC and the principles of transparency and equal treatment preclude national legislation or administrative practices, such as those described in these proceedings, which provide for a five-minute 'black-out' in the final phase of the electronic auction, during which competitors are unable to ascertain their respective rankings?

⁽¹⁾ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ 2004 L 134, p. 1).

Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 31 July 2013 — Vietnam Airlines Co. Ltd v Brigitta Voss, Klaus-Jürgen Voss

(Case C-431/13)

(2013/C 325/20)

Language of the case: German

Referring court

Landgericht Frankfurt am Main (Germany)

Parties to the main proceedings

Defendant and appellant: Vietnam Airlines Co. Ltd

Applicants and respondents: Brigitta Voss, Klaus-Jürgen Voss

Questions referred

1. Is a passenger entitled to receive in full the compensation provided for in Article 7 of Regulation No 261/2004⁽¹⁾ for long delay of flights, even when a third party, other than a passenger, has already made a payment to the passenger as compensation for the delay suffered, or should such payment be deducted?

2. If such a deduction should be made: Is that deduction applicable only to claims for damages within the meaning of German law or also to claims for a price reduction?

(¹) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 2 August 2013 — Unitrading Ltd; other party: Staatssecretaris van Financiën

(Case C-437/13)

(2013/C 325/21)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant in cassation: Unitrading Ltd

Other party: Staatssecretaris van Financiën

Questions referred

1. Do the rights enshrined in Article 47 of the Charter (¹) [of Fundamental Rights of the European Union] mean that if customs authorities, in the context of the submission of evidence as to the origin of imported goods, intend to rely on the results of an examination carried out by a third party with regard to which that third party does not disclose further information either to the customs authorities or to the declarant, as a result of which it is made difficult or impossible for the defence to verify or disprove the correctness of the conclusion arrived at and the court is hampered in its task of evaluating the results of the examination, those examination results may not be taken into account by the court? Does it make any difference to the answer to that question that that third party withholds the information concerned from the customs authorities and from the party concerned on the ground, not further explained, that 'law enforcement sensitive information' is involved?
2. Do the rights enshrined in Article 47 of the Charter mean that when the customs authorities cannot disclose further information in respect of the examination carried out which forms the basis for their position that the goods have a specific origin — the results of which are challenged by reasoned submissions — the customs authorities — in so far as can reasonably be expected of them — must

cooperate with the party concerned in connection with the latter's request that it conduct, at its own expense, an inspection and/or sampling in the country of origin claimed by that party?

3. Does it make a difference to the answer to the first and second questions that, following the notification of the customs duties payable, portions of the samples of the goods, to which the party concerned could have obtained access with a view to having an examination carried out by another laboratory, were still available for a limited period, even though the result of such an examination would have had no bearing on the fact that the results obtained by the laboratory used by the customs authorities could not be verified, with the result that even in that case it would have been impossible for the court — if that other laboratory were to find in favour of the origin claimed by the party concerned — to compare the results of the two laboratories with respect to their reliability? If so, must the customs authorities point out to the party concerned that portions of the samples of the goods are still available and that it may request those samples for purposes of such an examination?

(¹) OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 2 August 2013 — SC BCR Leasing IFN SA v Agenția Națională de Administrare Fiscală — Direcția generală de administrare a marilor contribuabili, Agenția Națională de Administrare Fiscală — Direcția generală de soluționare a contestațiilor

(Case C-438/13)

(2013/C 325/22)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: SC BCR Leasing IFN SA

Defendants: Agenția Națională de Administrare Fiscală — Direcția generală de administrare a marilor contribuabili, Agenția Națională de Administrare Fiscală — Direcția generală de soluționare a contestațiilor

Question referred

May a situation involving goods under a financial leasing contract which, following termination of the contract as a result of the user's breach, have not been recovered from the