

**Judgment of the Court (Fourth Chamber) of 11 June 2015 (request for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen — Germany) — Pfeifer & Langen GmbH & Co. KG v Bundesanstalt für Landwirtschaft und Ernährung**

(Case C-52/14) <sup>(1)</sup>

*(Reference for a preliminary ruling — Protection of the financial interests of the European Union — Regulation (EC, Euratom) No 2988/95 — Article 3(1) — Limitation period — Dies a quo — Repeated irregularities — Interruption of the limitation period — Conditions — Competent authority — Person in question — Act relating to investigation or legal proceedings concerning the irregularity — Time-limit equal to twice the limitation period)*

(2015/C 270/09)

Language of the case: German

**Referring court**

Oberverwaltungsgericht für das Land Nordrhein-Westfalen

**Parties to the main proceedings**

Applicant: Pfeifer & Langen GmbH & Co. KG

Defendant: Bundesanstalt für Landwirtschaft und Ernährung

**Operative part of the judgment**

1. The third subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests must be interpreted as meaning that the concept of 'competent authority', within the meaning of that provision, is to be understood as designating the authority which has responsibility, under national law, for adopting acts relating to the investigation or legal proceedings in question, which authority may be different from that which is responsible for awarding or recovering sums wrongfully received to the detriment of the European Union's financial interests.
2. The third subparagraph of Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that acts relating to investigation or legal proceedings concerning an irregularity have been notified to the 'person in question', within the meaning of that provision, where a set of facts lead to the conclusion that the person in question has effectively been made aware of those acts relating to investigation or legal proceedings. In the case of a legal person, that requirement is satisfied if the act in question has actually been brought to the attention of a person whose conduct may be ascribed, under national law, to that legal person, which it is for the referring court to ascertain.
3. The third subparagraph of Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that an act must set out with sufficient precision the transactions to which the suspicions of irregularities relate in order to constitute an 'act relating to investigation or legal proceedings', within the meaning of that provision. That requirement for precision does not, however, require the act to state the possibility that a penalty or particular administrative measure may be imposed. It is for the referring court to ascertain whether the report at issue in the main proceedings satisfies that requirement.
4. The second subparagraph of Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that, with regard to the fact that irregularities must be closely linked in time in order to be regarded as a 'repeated irregularity', within the meaning of that provision, it is required only that the period between each irregularity be shorter than the limitation period of four years provided for in the first subparagraph of Article 3(1). Irregularities such as those at issue in the main proceedings, concerning the calculation of the quantities of sugar stored by the manufacturer, committed in different marketing years, leading to incorrect declarations of those quantities by that manufacturer and, accordingly, the wrongful payment of sums as reimbursements of storage costs, constitute, in principle, a 'repeated irregularity' within the meaning of the second subparagraph of Article 3(1) of Regulation No 2988/95, which it is for the referring court to ascertain.

5. The second subparagraph of Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that classification of a series of irregularities as a 'continuous or repeated irregularity', within the meaning of that provision, is not excluded where the competent authorities have not made regular and in-depth checks on the person in question.
6. The fourth subparagraph of Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that the limitation period laid down in that subparagraph begins to run, in the case of a continuous or repeated irregularity, from the day on which that irregularity ceased, irrespective of the date on which the national administration became aware of that irregularity.
7. Article 3(1) of Regulation No 2988/95 must be interpreted as meaning that acts relating to investigation or legal proceedings adopted by the competent authority and notified to the person in question, in accordance with the third subparagraph of that provision, do not have the effect of interrupting the limitation period laid down in the fourth subparagraph thereof.

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<sup>(1)</sup> OJ C 142, 12.5.2014.

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**Judgment of the Court (Seventh Chamber) of 11 June 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Hauptzollamt Hannover v Amazon EU Sàrl**

(Case C-58/14) <sup>(1)</sup>

**(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Customs union and Common Customs Tariff — Combined Nomenclature — Heading 8543 70 — Electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85 of the Combined Nomenclature — Subheadings 8543 70 10 and 8543 70 90 — Reading devices for electronic books with translation or dictionary functions)**

(2015/C 270/10)

Language of the case: German

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

Applicant: Hauptzollamt Hannover

Defendant: Amazon EU Sàrl

**Operative part of the judgment**

*The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 861/2010 of 5 October 2010, must be interpreted as meaning that a reading device for electronic books which has a translation or dictionary function must, where that function is not its principal function, that being a matter for the national court to ascertain, be classified under subheading 8543 70 90 and not under subheading 8543 70 10.*

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<sup>(1)</sup> OJ C 142, 12.5.2014.