

Judgment of the Court (Seventh Chamber) of 26 November 2015 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság — Hungary) — SC Total Waste Recycling SRL v Országos Környezetvédelmi és Természetvédelmi Főfelügyelőség

(Case C-487/14) ⁽¹⁾

(Reference for a preliminary ruling — Environment — Waste — Shipments — Regulation (EC) No 1013/2006 — Shipments within the European Union — Point of entry different from that specified in the notification and in the prior consent — Essential change to the details of a shipment of waste — Illegal shipment — Proportionality of the administrative fine)

(2016/C 038/11)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: SC Total Waste Recycling SRL

Defendant: Országos Környezetvédelmi és Természetvédelmi Főfelügyelőség

Operative part of the judgment

1. Article 17(1) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, as amended by Commission Regulation (EC) No 669/2008 of 15 July 2008, must be interpreted as meaning that the shipment of waste, such as that referred to in Annex IV to that regulation, in the country of transit at a different border crossing point than that which is provided in the notification document and which the competent authorities consented to, must be considered to be an essential change made to the details and/or conditions of the shipment which received consent, so that the fact of not having informed the competent authorities of that change results in the shipment of waste being illegal because it was 'effected in a way which is not specified materially in the notification' within the meaning of Article 2(35)(d) of that regulation.
2. Article 50(1) of Regulation No 1013/2006, as amended by Regulation (EC) No 669/2008, according to which the penalties applied by the Member States for infringement of the provisions of that regulation must be proportionate, must be interpreted as meaning that the imposition of a fine penalising the illegal shipment of waste, such as that referred to in Annex IV to that regulation, in the country of transit at a border crossing point which differs from that provided in the notification document which had been consented to by the competent authorities, of which the basic amount is the same as the fine imposed for a breach of the requirement to obtain consent and to give prior notification in writing, is to be considered to be proportionate only if the circumstances of the infringement make it possible to find that they involve equally serious infringements. It is for the national court to determine, by taking into account all the factual and legal circumstances of the case before it, and, in particular, the risks which may be created by that infringement in the field of the protection of the environment and human health, whether the amount of the penalty does not go beyond what is necessary to attain the objectives of ensuring a high level of protection of the environment and human health.

⁽¹⁾ OJ C 7, 12.1.2015.