

### Question referred

Are goods put up in sets for retail sale that are presented to customs authorities in separate packages because this is justified, but from which it is clear that they belong together and are intended to be offered as a single unit on the retail market, also to be regarded as goods put up in sets for retail sale, within the meaning of Rule 3(b) of the General Rules for the interpretation of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 <sup>(1)</sup> of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1214/2007 <sup>(2)</sup> of 20 September 2007, in the case where those goods are packed together after the declaration with a view to being offered for sale on the retail market?

<sup>(1)</sup> OJ 1987 L 256, p. 1.

<sup>(2)</sup> OJ 2007 L 286, p. 1.

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**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 10 November 2014 —  
Buzzi Unicem SpA and Others v Comitato nazionale per la gestione della Direttiva 2003/87/EC and  
Others**

(Case C-502/14)

(2015/C 026/17)

*Language of the case: Italian*

### Referring court

Consiglio di Stato

### Parties to the main proceedings

*Applicants:* Buzzi Unicem SpA, Colacem SpA, Cogne Acciai Speciali SpA, Olon SpA, Laterlite SpA

*Defendants:* Comitato nazionale per la gestione della Direttiva 2003/87/EC, Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Ministero dello Sviluppo economico

### Questions referred

1. Is European Commission Decision 2013/448/EU of 5 September 2013 invalid in so far as it failed to take into account, in the calculation of the allowances to be allocated free of charge, the percentage of emissions associated with waste gas combustion — or steel processing gas — or of emissions associated with the heat produced by cogeneration, thereby infringing Article 290 TFEU and Article 10a(1),(4) and (5) of Directive 2003/87/EC <sup>(1)</sup>, going beyond the limits of the powers conferred by that directive and at variance with its objectives (to encourage more energy-efficient techniques and to protect the needs of economic development and employment)?
2. Is European Commission Decision 2013/448/EU of 5 September 2013 invalid, in the light of the Community principles of effectiveness and proportionality underlying Article 5 TEU, owing to undue failure to respect the applicant companies' legitimate expectation of remaining in possession of the number of the allowances allocated to them on a preliminary basis and to which they are entitled on the basis of Directive 2003/87, thereby depriving those companies of the economic benefit associated with that number of allowances?
3. Is European Commission Decision 2013/448/EU of 5 September 2013 invalid in so far as it failed to take into account, in the calculation of the allowances to be allocated free of charge, emissions from plants that fell within the scope of the directive only with effect from 2013, in that such plants were included in the Emission Trading Scheme under Directive 2009/29/EC?
4. Is European Commission Decision 2013/448/EU of 5 September 2013 invalid as regards its definition of the cross-sectoral correction factor, given that the decision infringes the second paragraph of Article 296 TFEU and Article 41 of the [Charter of Fundamental Rights of the European Union] owing to its failure to provide an adequate statement of reasons?

5. Is European Commission decision 2013/448/EU of 5 September 2013 invalid as regards its definition of the cross-sectoral correction factor, on the ground that it infringes the procedural rules under Articles 10a(1) and 23(3) of Directive 2003/87/EC?

<sup>(1)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).

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**Request for a preliminary ruling from the Tribunal Superior de Justicia del País Vasco (Spain) lodged on 13 November 2014 — Administrador de Infraestructuras Ferroviarias (ADIF) v Luis Aira Pascual and Others**

**(Case C-509/14)**

(2015/C 026/18)

*Language of the case: Spanish*

**Referring court**

Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco

**Parties to the main proceedings**

*Applicant:* Administrador de Infraestructuras Ferroviarias (ADIF)

*Defendant:* Luis Aira Pascual, Algeposa Terminales Ferroviarios, S.L. and FOGASA

**Question referred**

Does Article 1[(1)](b) of Council Directive 2001/23/EC <sup>(1)</sup> of 12 March 2001, in conjunction with Article 4(1) thereof, preclude an interpretation of the Spanish legislation intended to give effect to the Directive, to the effect that a public-sector undertaking, responsible for a service central to its own activities and requiring important material resources, that has been providing that service by means of a public contract, requiring the contractor to use those resources which it owns, is not subject to the obligation to take over the rights and obligations relating to employment relationships when it decides not to extend the contract but to assume direct responsibility for its performance, using its own staff and thereby excluding the staff employed by the contractor, so that the service continues to be provided without any change other than that arising as a result of the replacement of the workers performing the activities and the fact that they are employed by a different employer?

<sup>(1)</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ 2001 L 82, p. 16).

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**Appeal brought on 14 November 2014 by Éditions Odile Jacob SAS against the judgment of the General Court (Second Chamber) delivered on 5 September 2014 in Case T-471/11 Odile Jacob v Commission**

**(Case C-514/14 P)**

(2015/C 026/19)

*Language of the case: French*

**Parties**

*Appellant:* Éditions Odile Jacob SAS (represented by: J.-F. Bellis, O. Fréget and L. Eskenazi, avocats)

*Other parties to the proceedings:* European Commission, Lagardère SCA, Wendel