

Judgment of the Court (Second Chamber) of 16 February 2017 (request for a preliminary ruling from the Handelsgericht Wien — Austria) — Verwertungsgesellschaft Rundfunk GmbH v Hettegger Hotel Edelweiss GmbH

(Case C-641/15) ⁽¹⁾

(Reference for a preliminary ruling — Intellectual property — Directive 2006/115/EC — Article 8(3) — Exclusive right of broadcasting organisations — Communication to the public — Places accessible to the public against payment of an entrance fee — Communication of broadcasts by TV sets installed in hotel rooms)

(2017/C 112/14)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Verwertungsgesellschaft Rundfunk GmbH

Defendant: Hettegger Hotel Edelweiss GmbH

Operative part of the judgment

Article 8(3) of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property must be interpreted as meaning that the communication of television and radio broadcasts by means of TV sets installed in hotel rooms does not constitute a communication made in a place accessible to the public against payment of an entrance fee.

⁽¹⁾ OJ C 90, 7.3.2016.

Judgment of the Court (Sixth Chamber) of 16 February 2017 (request for a preliminary ruling from the Gerechtshof Amsterdam — Netherlands) — Aramex Nederland BV v Inspecteur van de Belastingdienst/Douane

(Case C-145/16) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Customs union and Common Customs Tariff — Tariff classification — Combined Nomenclature — Validity — Regulation (EU) No 301/2012 — Headings 8703 and 8711 — Three-wheeled motor vehicle called ‘Spyder’)

(2017/C 112/15)

Language of the case: Dutch

Referring court

Gerechtshof Amsterdam

Parties to the main proceedings

Applicant: Aramex Nederland BV

Defendant: Inspecteur van de Belastingdienst/Douane

Operative part of the judgment

The Combined Nomenclature set out 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 Implementing Regulation (EU) No 927/2012 of 9 October 2012, must be interpreted as meaning that a three-wheeled vehicle, such as that at issue in the main proceedings, fitted with tyres manufactured for three-wheeled motorcycles but similar to those for motor cars, steered using a handlebar and fitted with a steering system based on the Ackermann principle, falls within heading 8703 of that nomenclature.

(¹) OJ C 200, 6.6.2016.

Judgment of the Court (Fifth Chamber) of 16 February 2017 (request for a preliminary ruling from the Vrhovno sodišče Republika Slovenija — Slovenia) — C.K., H.F., A.S. v Republika Slovenija

(Case C-578/16 PPU) (¹)

(Reference for a preliminary ruling — Area of freedom, security and justice — Borders, asylum and immigration — Dublin system — Regulation (EU) No 604/2013 — Article 4 of the Charter of Fundamental Rights of the European Union — Inhuman or degrading treatment — Transfer of a seriously ill asylum seeker to the State responsible for examining his application — No substantial grounds for believing that there are proven systemic flaws in that Member State — Obligations imposed on the Member State having to carry out the transfer)

(2017/C 112/16)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republika Slovenija

Parties to the main proceedings

Applicant: C.K., H.F., A.S.

Defendant: Republika Slovenija

Operative part of the judgment

1. Article 17(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person must be interpreted as meaning that the question of the application, by a Member State, of the 'discretionary clause' laid down in that provision is not governed solely by national law and by the interpretation given to it by the constitutional court of that Member State, but is a question concerning the interpretation of EU law, within the meaning of Article 267 TFEU.
2. Article 4 of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that:
 - even where there are no substantial grounds for believing that there are systemic flaws in the Member State responsible for examining the application for asylum, the transfer of an asylum seeker within the framework of Regulation No 604/2013 can take place only in conditions which exclude the possibility that that transfer might result in a real and proven risk of the person concerned suffering inhuman or degrading treatment, within the meaning of that article;
 - in circumstances in which the transfer of an asylum seeker with a particularly serious mental or physical illness would result in a real and proven risk of a significant and permanent deterioration in the state of health of the person concerned, that transfer would constitute inhuman and degrading treatment, within the meaning of that article;