

Judgment of the Court (Tenth Chamber) of 22 November 2017 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — Asotsiatsia na balgarskite predpriyatia za mezhdunarodni prevozi i patishtata (Aebtri) v Nachalnik na Mitnitsa Burgas

(Case C-224/16) ⁽¹⁾

(Reference for a preliminary ruling — Customs union — External transit — Road freight transport operation carried out under cover of a TIR carnet — Article 267 TFEU — Jurisdiction of the Court to interpret Articles 8 and 11 of the TIR Convention — TIR operation not discharged — Liability of the guaranteeing association — Article 8(7) of the TIR Convention — Duty of the competent authorities to require payment so far as possible from the person or persons directly liable before making a claim against the guaranteeing association — Explanatory notes annexed to the TIR Convention — Regulation (EEC) No 2454/93 — Article 457(2) — Community Customs Code — Articles 203 and 213 — Persons who acquired or held the goods and who were aware or should reasonably have been aware that they had been removed from customs supervision)

(2018/C 022/09)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Asotsiatsia na balgarskite predpriyatia za mezhdunarodni prevozi i patishtata (Aebtri)

Defendant: Nachalnik na Mitnitsa Burgas

Operative part of the judgment

1. The Court has jurisdiction to give preliminary rulings on the interpretation of Articles 8 and 11 of the Customs Convention on the international transport of goods under cover of TIR carnets, signed in Geneva on 14 November 1975, and approved on behalf of the European Economic Community by Council Regulation (EEC) No 2112/78 of 25 July 1978, in its amended and consolidated version published by Council Decision 2009/477/EC of 28 May 2009.
2. Article 8(7) of the Customs Convention on the international transport of goods under cover of TIR carnets, approved on behalf of the Community by Regulation No 2112/78, in its amended and consolidated version published by Decision 2009/477, must be interpreted as meaning that, in a situation such as that in the main proceedings, the customs authorities have fulfilled the obligation laid down in that provision to require payment of the import duties and taxes concerned, so far as possible, from the holder of the TIR carnet as the person directly liable for those sums, before bringing a claim against the guaranteeing association.
3. The third indent of Article 203(3) and Article 213 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006, must be interpreted as meaning that the fact that a recipient acquired or held goods which he knew to have been conveyed under cover of a TIR carnet and the fact that it has not been established that those goods were presented and declared to the customs office of destination, are not sufficient, in themselves, for it to be concluded that such a recipient was aware or should reasonably have been aware that those goods had been removed from customs supervision within the meaning of the first of those provisions and must therefore be held jointly and severally liable for the customs debt pursuant to the second of those provisions.

⁽¹⁾ OJ C 243, 4.7.2016.