Judgment of the Court (Grand Chamber) of 6 February 2018 (request for a preliminary ruling from the Hof van Cassatie — Belgium) — Criminal proceedings against Ömer Altun, Abubekir Altun, Sedrettin Maksutogullari, Yunus Altun, Absa NV, M. Sedat BVBA, Alnur BVBA

(Case C-359/16) ([1])

(Reference for a preliminary ruling — Migrant workers — Social security — Applicable legislation — Regulation (EEC) No 1408/71 — Article 14(1)(a) — Posted workers — Regulation (EEC) No 574/72 — Article 11(1)(a) — E 101 certificate — Probative value — Certificate fraudulently obtained or relied on)

(2018/C 123/03)

Language of the case: Dutch

Referring court

Hof van Cassatie

Parties in the main criminal proceedings

Ömer Altun, Abubekir Altun, Sedrettin Maksutogullari, Yunus Altun, Absa NV, M. Sedat BVBA, Alnur BVBA

Other party to the proceedings: Openbaar Ministerie

Operative part of the judgment

Article 14(1)(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004, and Article 11(1)(a) of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down rules for the application of Regulation No 1408/71, as amended and updated by Regulation No 118/97, must be interpreted as meaning that, when an institution of a Member State to which workers have been posted makes an application to the institution that issued E 101 certificates for the review and withdrawal of those certificates in the light of evidence, collected in the course of a judicial investigation, which supports the conclusion that those certificates were fraudulently obtained or relied on, and the issuing institution fails to take that evidence into consideration for the purpose of reviewing the grounds for the issue of those certificates, a national court may, in the context of proceedings brought against persons suspected of having used posted workers ostensibly covered by such certificates, disregard those certificates if, on the basis of that evidence and with due regard to the safeguards inherent in the right to a fair trial which must be granted to those persons, it finds the existence of such fraud.

([1]) OJ C 335, 12.9.2016.

Judgment of the Court (Sixth Chamber) of 8 February 2018 — European Commission v Federal Republic of Germany

(Case C-380/16) ([1])

(Failure of a Member State to fulfil obligations — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 73 — Taxable amount — Articles 306 to 310 — Special scheme for travel agents — Exclusion from that scheme of sales to taxable undertakings — Overall determination of the taxable amount for a given period — Incompatibility)

(2018/C 123/04)

Language of the case: German

Parties

Applicant: European Commission (represented by: M. Owsiany-Hornung and M. Wasmeier, acting as Agents)

Defendant: Federal Republic of Germany (represented by: T. Henze and R. Kanitz, acting as Agents)

Intervener in support of the defendant: Kingdom of the Netherlands (represented by: M.K. Bulterman, C.S. Schillemans and B. Koopman, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by excluding from the special value-added-tax scheme applicable to travel agents travel services provided to taxable persons who use those services for their business, and by authorising travel agents, in so far as they are subject to that scheme, to determine the taxable amount for value added tax on an overall basis for groups of services or for all services provided during a tax year, the Federal Republic of Germany has failed to fulfil its obligations under Article 73 and Articles 306 to 310 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;*

2. *Orders the Federal Republic of Germany to pay the costs.*

([1]) OJ C 314, 29.8.2016.

Judgment of the Court (Sixth Chamber) of 8 February 2018 — European Commission v Hellenic Republic

(Case C-590/16) ([1])

(Failure of a Member State to fulfil obligations — Directive 2008/118/EC — Article 7 — General arrangements for excise duty — Supply of petroleum products, without charging excise duty — Filling stations at the border of the Hellenic Republic with third countries — Chargeability of excise duty — Concept of 'release for consumption' of excise goods — Concept of 'departure from a duty suspension arrangement')

(2018/C 123/05)

Language of the case: Greece

Parties

Applicant: European Commission (represented by: F. Tomat and A. Kyratsou, acting as Agents)

Defendant: Hellenic Republic (represented by: E.–M. Mamouna and M. Tassopoulou, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by adopting and retaining in force legislation allowing the sale of tax-exempted petroleum products by the filling stations of Katastimata Aforologiton Eidon AE at the border posts of Kipoi Evrou (Greece), Kakavia (Greece) and Evzonoi (Greece) which are all situated in regions bordering third countries, namely the Republic of Turkey, the Republic of Albania and the former Yugoslav Republic of Macedonia, the Hellenic Republic has failed to fulfil its obligations under Article 7(1) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC;*

2. *Orders the Hellenic Republic to pay the costs*

([1]) OJ C 30, 30.1.2017.