

By its third ground of appeal, directed against paragraphs 93 and 96 to 103 of the judgment under appeal, the Office alleges a distortion of the facts and a wrongful appraisal of the evidence.

By its fourth ground of appeal, directed against paragraphs 121 to 129 of the judgment under appeal, the Office claims that the General Court erred in law in its interpretation of the duty of care and infringed its duty to provide a statement of reasons.

(¹) Judgment of the General Court of 26 October 2022, *KD v EUIPO* (T-298/20, EU:T:2022:671; the 'judgment under appeal').

Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 3 March 2023 — BG Technik cs, a.s. v Generální ředitelství cel

(Case C-129/23, BG Technik)

(2023/C 216/32)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: BG Technik cs, a.s.

Defendant: Generální ředitelství cel

Questions referred

1. Can an electric mobility vehicle whose maximum speed exceeds 10 km/hr, and which is equipped with a separate adjustable steering column, be classified under heading 8713 of the Combined Nomenclature, despite the Explanatory Notes to the Combined Nomenclature of 6 May 2011 (¹) and 4 March 2015? (²)
2. Does Commission Regulation (EC) No 718/2009 (³) apply — aside from the vehicles directly described therein — also to an electric mobility vehicle with the following characteristics:
 - Four wheels (the rear pair of wheels are anti-tip);
 - An adjustable and rotating seat with armrests,
 - A horizontal platform between the front and rear sections of the mobility vehicle;
 - An 800 W electric motor, enabling the attainment of a speed of up to 16 km/hr and a range of up to 45 km,
 - An electromagnetic brake on the rear wheels;
 - Closed handlebars mounted on a separate steering column that can be folded down and equipped with levers for speed selection?

(¹) Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2011 C 137, p. 1).

(²) Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2015 C 76, p. 1).

(³) Commission Regulation (EC) No 718/2009 of 4 August 2009 concerning the classification of certain goods in the Combined Nomenclature (OJ 2009 L 205, p. 7).