



C/2024/3306

3.6.2024

**Request for a preliminary ruling from the Dioikitiko Protodikeio Thessalonikis (Greece) lodged on
30 January 2024 – HF v Anexartiti Archi Dimosion Esodon**

(Case C-72/74, Keladis I ⁽¹⁾)

(C/2024/3306)

Language of the case: Greek

Referring court

Dioikitiko Protodikeio Thessalonikis

Parties to the main proceedings

Applicant: HF

Defendant: Anexartiti Archi Dimosion Esodon

Questions referred

1. Are the statistical values referred to as ‘threshold values’/‘fair prices’, which are based on Eurostat’s Comext statistical database and are derived from OLAF’s information system (Anti-Fraud Information System, ‘AFIS’), of which the Automated Monitoring Tool (‘AMT’) is an application, available to the national customs authorities through their respective electronic systems? Do they meet the requirement of accessibility for all economic operators, as referred to in the judgment of 9 June 2022, *Fawkes Kft.*, C-187/21? ⁽²⁾ Do they contain solely aggregated data, as defined in Regulations Nos 471/2009 ⁽³⁾ and 113/2010 ⁽⁴⁾ on Community statistics relating to external trade with non-Member States, as in force at the relevant time?
2. In the context of *ex post* controls in which it is not possible to physically check the imported goods, may those statistical values in the Comext database, if regarded as generally accessible and as not containing aggregated data only, be used by the national customs authorities solely in order to substantiate their reasonable doubts as to whether the value declared in the declarations represents the transaction value, that is to say, the amount actually paid or payable for those goods, or may they also be used to determine the customs value of the goods, in accordance with the alternative method referred to in Article 30(2)(c) of the Community Customs Code (Regulation No 2913/[92]) ⁽⁵⁾ [corresponding to Article 7[4](2)(c) of the Union Customs Code (Regulation No 952/2013)]; ⁽⁶⁾ ‘deductive method’] or possibly another alternative method? How does the fact that it cannot be established that identical or similar goods are involved in transactions at the relevant time, as defined in Article 152(1) of Regulation (EEC) No 2454/93 ⁽⁷⁾ (the implementing regulation), affect the answer to that question?

⁽¹⁾ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

⁽²⁾ Judgment of the Court of 9 June 2022, *FAWKES*, C-187/21, EU:C:2022:458.

⁽³⁾ Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ 2009 L 152, p. 23).

⁽⁴⁾ Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements (OJ 2010 L 37, p. 1).

⁽⁵⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

⁽⁶⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1).

⁽⁷⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993, L 253, p. 1).

3. In any event, is the use of those statistical values to determine the customs value of certain imported goods, which is equivalent to the application of minimum values, consistent with the obligations arising under the World Trade Organization (WTO) International Agreement on the Determination of Customs Valuation, otherwise known as the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, to which the European Union is a party, in view of the fact that that agreement expressly prohibits the use of minimum values?
 4. In relation to the previous question, is the reservation in favour of the principles and general provisions of the aforementioned International Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, laid down in Article 31(1) of the Community Customs Code (Regulation No 2913/92) concerning the fall-back method for determining the customs value and, accordingly, the exclusion of the application of minimum values laid down in Article 31(2) [which does not appear in the corresponding provision of Article 74(3) of the Union Customs Code (Regulation No 952/2013)], valid only where that method is applied or does it govern all the alternative methods for determining customs value?
 5. Where it is established that simplification through the grouping of headings, within the meaning of Article 81 of the Community Customs Code (Regulation No 2913/92) [now Article 177 of the Union Customs Code (Regulation No 952/2013)], was used on importation, is it possible to apply the alternative method set out in Article 30(2)(c) of the Community Customs Code (Regulation No 2913/1992) [corresponding to Article 70(2)(c) [Article 70(2)] of the Union Customs Code (Regulation No 952/2013)], irrespective of the disparity between the goods declared under the same TARIC code in the same declaration and the value fictitiously established as a result for those goods not belonging to that tariff classification code?
 6. Finally, irrespective of the preceding questions, are the provisions in the Greek legislation concerning the determination of the persons liable for payment of import VAT sufficiently clear, pursuant to the requirements of EU law, in so far as they designate the 'deemed owner of the imported goods' as the person liable?
-