

value of the product/service, the size of the market for the product/service or the effect of a new national provision on use, which could be either a total prohibition on use or prohibition or restriction within one of many possible areas of use?

- (¹) of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 109 of 26.04.1983, p. 8).
- (²) of 22 March 1988 amending Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 81 of 26.03.1988, p. 75).
- (³) of 23 March 1994 materially amending for the second time Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 100 of 19.04.1994, p. 30).

Reference for a preliminary ruling by the Bundesfinanzhof by order of that Court of 13 May 2003 in the proceedings between Hauptzollamt Neubrandenburg and Jens Christian Siig, trading as 'Internationale Transport' Export-Import

(Case C-272/03)

(2003/C 213/22)

Reference has been made to the Court of Justice of the European Communities by order of the Bundesfinanzhof (Federal Finance Court) of 13 May 2003, received at the Court Registry on 24 June 2003, for a preliminary ruling in the proceedings between Hauptzollamt Neubrandenburg and Jens Christian Siig, trading as 'Internationale Transport' Export-Import on the following question:

Is Article 718(3)(d) in conjunction with Article 670(p) of Regulation (EEC) No 2454/93 (¹) to be interpreted as meaning that that regulation prohibits the use of a road tractor registered outside the customs territory of the Community to transport a semi-trailer from a place within the customs territory of the Community, where the semi-trailer is loaded with goods, to another place within the customs territory of the Community, where the semi-trailer is merely parked with

a view to being transported subsequently by another road tractor to the consignee of the goods, who is established outside the customs territory of the Community?

(¹) OJ L 253 of 11.10.1993, p. 1.

Action brought on 25 June 2003 by the Commission of the European Communities against the Portuguese Republic

(Case C-275/03)

(2003/C 213/23)

An action against the Portuguese Republic was brought before the Court of Justice of the European Communities on 25 June 2003 by the Commission of the European Communities, represented by António Caeiros and Klaus Wiedner, acting as Agents.

The applicant claims that the Court should:

- Declare that, by failing to transpose correctly and completely Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (¹), the Portuguese Republic has failed to fulfil its obligations under Community law;
- Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

Portuguese law as it stands makes the award of damages for infringements of Community law in the field of public procurement or national rules implementing that law subject to proof, by the person harmed by the infringement, that the misconduct of the State or of the public body was culpably or maliciously intended by the relevant body or office holders or administrative officials. Such evidence can be extremely difficult or impossible to produce. The difficulty or impossibility of producing such evidence may result in persons harmed by an infringement not obtaining the compensation to which they are entitled. It is therefore clear that that obligation, not provided for by Directive 89/665, on persons who have suffered damage is likely to undermine the effectiveness of Article 2(1)(c) of that directive.