

**Reference for a preliminary ruling by the College van Beroep voor het Bedrijfsleven by judgment of that Court of 27 June 2003 in the proceedings between A.H. Kuipers and the Productschap Zuivel**

(Case C-283/03)

(2003/C 213/26)

Reference has been made to the Court of Justice of the European Communities by judgment of the College van Beroep voor het Bedrijfsleven (Administrative Court for Trade and Industry) of 27 June 2003, received at the Court Registry on 30 June 2003, for a preliminary ruling in the proceedings between A.H. Kuipers and the Productschap Zuivel on the following questions:

1. Is a national system of quality deductions and supplements for raw milk delivered to the dairy, such as that at issue, consistent with Regulation (EEC) No 804/68 <sup>(1)</sup> on the common organisation of the market in milk and milk products and in particular with the prohibition of 'equalisation between the prices' in Article 24(2) (now, after consolidation of amendments to the text, Article 38(2) of Regulation (EC) No 1255/99)?
2. Is a national system of quality supplements for raw milk delivered to the dairy, such as that at issue, consistent with the prohibition of aids in Article 24(1) of Regulation (EEC) No 804/68?
3. If Question 2 is answered in the affirmative, is such a national system to be regarded as aid the grant of which must be notified beforehand to the Commission under Article 93(3) of the EC Treaty (now Article 88(3) EC)?

<sup>(1)</sup> OJ L 148 of 28.06.1968, p. 13.

**Reference for a preliminary ruling by the Cour d'Appel de Bruxelles by judgment of that Court of 19 June 2003 in the proceedings between the Belgian State and Temco Europe S.A.**

(Case C-284/03)

(2003/C 213/27)

Reference has been made to the Court of Justice of the European Communities by judgment of the Cour d'Appel de

Bruxelles (Court of Appeal, Brussels) of 19 June 2003, received at the Court Registry on 2 July 2003, for a preliminary ruling in the proceedings between the Belgian State and Temco Europe S.A. on the following question:

May Article 13B(b) of the Sixth Directive be interpreted to mean that transactions, corresponding in Belgian law to a contract of indefinite duration by which one company, by a number of contracts with associated companies, simultaneously grants a licence to occupy a single property in return for a payment set partially but essentially on the basis of the area occupied, where the inherent insecurity of a licence is absent owing to the fact that the transferees and the transferor are under common management, constitute a letting of immovable property within the meaning of Community law, or, in other words, does the independent Community law concept of the 'letting of immovable property' in Article 13B(b) of the Sixth Directive <sup>(1)</sup> cover use, for consideration, of an immovable asset for purposes other than those of the taxpayer's business — which definition is adopted in Article 44(3)(2) in fine of the Belgian Code de la TVA — that is to say, the grant under a licence of indefinite duration of a non-exclusive right of occupation in return for a monthly payment, albeit fluctuating and partly dependent on the profits of one of the contracting parties, where the inherent insecurity of a licence is absent owing to the fact that the transferees and the transferor are under common management?

<sup>(1)</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145 of 13.06.1977, p. 1).

**Action brought on 2 July 2003 by the Hellenic Republic against the Commission of the European Communities**

(Case C-285/03)

(2003/C 213/28)

An action against the Commission of the European Communities was brought on 2 July 2003 by the Hellenic Republic, represented by Vasilios Kondolaimos, state legal adviser, and by Yoannis Xhalkias, of the state legal service, with an address for service in Luxembourg at the Greek Embassy, 27 Rue Marie-Adélaïde.

The applicant claims that the Court should:

Annul or vary Commission Decision C(2003) 1539 in connection with the exclusion from Community financing of certain expenditure by the Member States in the context of the EAGGF — Guarantee section, in regard to the chapter concerning financial corrections imposed on the Hellenic Republic in the sector of arable cultivation for the financial years 2000 and 2001.

*Pleas in law and main arguments*

- Misinterpretation of provisions;
- Misappraisal of factual circumstances;
- Defective statement of reasons;
- Misinterpretation and misapplication of Article 5(2)(c) of Regulation (EEC) No 729/70 in conjunction with Document VI/5330/97;
- Misinterpretation and misapplication of Articles 6 and 7 of Regulation No 3508/92.

**Reference for a preliminary ruling by the House of Lords by order of that court dated 30 June 2003, in the case of Regina against London Borough of Bromley, ex parte Diane Barker (FC)**

(Case C-290/03)

(2003/C 213/29)

Reference has been made to the Court of Justice of the European Communities by an order of the House of Lords dated 30 June 2003, which was received at the Court Registry on 3 July 2003, for a preliminary ruling in the case of Regina and London Borough of Bromley, ex parte Diane Barker (FC) on the following questions:

- (1) Is identification of 'the decision of the competent authority or authorities which entitles the developer to proceed with the project' (article 1(2) of Directive 85/337/EEC<sup>(1)</sup> ('the Directive')) exclusively a matter for the national court applying national law?
- (2) Does the Directive require an environmental impact assessment to be carried out if, following the grant of outline planning permission subject to conditions that reserved matters be approved, without an environmental

impact assessment being carried out, it appears when approval of reserved matters is sought that the project may have significant effects on the environment by virtue inter alia of its nature, size or location (article 2(1) of the Directive)?

(3) In circumstances where:

- (a) national planning law provides for the grant of outline planning permission at an initial stage of the planning process and requires consideration by the competent authority at that stage as to whether an environmental impact assessment is required for purposes of the Directive; and
- (b) the competent authority then determines that it is unnecessary to carry out an environmental impact assessment and grants outline planning permission subject to conditions reserving specified matters for later approval; and
- (c) that decision can then be challenged in the national courts;

may national law, consistently with the Directive, preclude a competent authority from requiring that an environmental impact assessment be carried out at a later stage of the planning process?

<sup>(1)</sup> Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 05.07.1985, p. 40).

**Reference for a preliminary ruling by the VAT and Duties Tribunals, Manchester Tribunal Centre, by direction of that court dated 30 June 2003, in the case of MyTravel plc against Commissioners of Customs and Excise**

(Case C-291/03)

(2003/C 213/30)

Reference has been made to the Court of Justice of the European Communities by direction of the VAT and Duties Tribunals, Manchester Tribunal Centre, dated 30 June 2003, which was received at the Court Registry on 4 July 2003, for a preliminary ruling in the case of MyTravel plc and Commissioners of Customs and Excise on the following questions: