

European Communities (Agents: J.-M. Stenier, M. Bavendamm and I. Ní Riagáin Düro) — the Court (First Chamber), composed of M. Wathelet, President of the Chamber, P. Jann and A. Rosas (Rapporteur), Judges; F. G. Jacobs, Advocate General; R. Grass, Registrar, has made an order on 10 July 2003, the operative part of which is as follows:

1. *The appeal is dismissed;*
2. *Mr. Di Pietro is ordered to pay the costs.*

(¹) OJ C 19 of 25.1.2003.

Reference for a preliminary ruling by the Landesgericht für ZRS (Zivilrechtssachen) Wien by order of that Court of 30 September 2002 in the case of DLD Trading Company Import-Export spol. s.r.o. against Republic of Austria

(Case C-216/03)

(2003/C 251/03)

Reference has been made to the Court of Justice of the European Communities by order of the Landesgericht für ZRS (Zivilrechtssachen) Wien (Regional Civil Court, Vienna) of 30 September 2002, received at the Court Registry on 19 May 2003, for a preliminary ruling in the case of DLD Trading Company Import-Export spol. s.r.o. against Republic of Austria on the following questions:

1. Are Regulation (EC) No 3316/94 (¹) and Regulation (EC) No 2744/981 (²) compatible with the provisions of Community law relating to exemptions from customs duties, in particular Regulation (EEC) No 918/83 (³) and the principle of the Customs union?
2. If Question 1 is answered in the affirmative:

Did the retroactive entry into force of Regulation (EC) No 2744/98 infringe the principles of legal certainty or the protection of legitimate expectations?

3. Are Article 5(8) of Directive 69/169/EEC (⁴) and the national provisions transposing it, namely Paragraph 3a of the Verbrauchssteuer-befreiungsverordnung (Regulation on exemptions from excise duties) and the Umsatzsteuer-Verordnung, (Turnover Tax Regulations) (BGBl II No 326/1997), incompatible with the purposes of harmonising turnover tax and excise duty within the Member States, liberalising and facilitating travel to and from non-

member countries and aligning exemptions from tax and from customs duty in the context of travel?

(¹) OJ L 350, p. 12.

(²) OJ L 345, p. 9.

(³) OJ L 105, p. 1.

(⁴) OJ L 133, p. 6.

Reference for a preliminary ruling by the College van Beroep voor het bedrijfsleven by judgment of that Court of 26 June 2003 in the proceedings between 1. Cindu Chemicals B.V., 2. Rütgers VFT AG, 3. Touwen & Co B.V., 4. Pearl Paint Holland B.V., 5. Elf Atochem Nederland B.V., 6. Zijlstra & Co. Verf B.V. and 7. B.V. Chemische Producten Struyk & Co. and College voor de toelating van bestrijdingsmiddelen

(Case C-281/03)

(2003/C 251/04)

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 26 June 2003, received at the Court Registry on 30 June 2003, for a preliminary ruling in the proceedings between 1. Cindu Chemicals B.V., 2. Rütgers VFT AG, 3. Touwen & Co B.V., 4. Pearl Paint Holland B.V., 5. Elf Atochem Nederland B.V., 6. Zijlstra & Co. Verf B.V. and 7. B.V. Chemische Producten Struyk & Co. and College voor de toelating van bestrijdingsmiddelen on the following question:

Does the Substances Directive permit a Member State to lay down additional conditions for the placing on the market and use of a biocidal product the active substance of which is included in Annex I to the Substances Directive?

Reference for a preliminary ruling by the College van Beroep voor het bedrijfsleven by judgment of that Court of 26 June 2003 in the proceedings between Arch Timber Protection BV and College voor de toelating van bestrijdingsmiddelen; party to these proceedings: Stichting Behoud Leefmilieu en Natuur Maas en Waal

(Case C-281/03)

(2003/C 251/05)

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 26 June 2003, received at the Court Registry on 30 June 2003, for a preliminary ruling in the proceedings between Arch Timber Protection BV and College voor de toelating van bestrijdingsmiddelen; party to these proceedings: Stichting Behoud Leefmilieu en Natuur Maas en Waal on the following question:

Does the Substances Directive permit a Member State to lay down additional conditions for the placing on the market and use of a biocidal product the active substance of which is included in Annex I to the Substances Directive?

Reference for a preliminary ruling by the Tribunal du Travail de Bruxelles by judgment of that Court of 20 May 2003 in the case of Gregorio MY against L'Office National des Pensions (O.N.P.)

(Case C-293/03)

(2003/C 251/06)

Reference has been made to the Court of Justice of the European Communities by judgment of the Tribunal du Travail de Bruxelles (Brussels Labour Court) of 20 May 2003, received at the Court Registry on 4 July 2003, for a preliminary ruling in the case of Gregorio MY against L'Office National des Pensions (O.N.P.) (National Pensions Office) on the following questions:

Are national provisions, such as the Belgian Law of 21 May 1991 (establishing a certain relationship between the Belgian pension schemes and those of international public law bodies) and the second paragraph of Article 4 of the Belgian Royal Decree of 23 December 1996 (implementing Articles 15, 16 and 17 of the Law of 26 July 1996 modernising social security and ensuring the viability of the statutory pension schemes), or Article 11 of Annex VIII to the Staff Regulations of Officials of the European Communities, not contrary to Articles 2, 3, 17, 18, 39, 40, 42 and 283 of the EC Treaty and Article 7 of Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (1):

1. in that these national provisions and the Staff Regulations do not allow a citizen of the European Union, such as the plaintiff, whose professional career has been carried out first in an undertaking or in a national public service and then in the European Union civil service, or vice versa, to compare the pension benefits which he would obtain under each scheme, be it national or European, through transfer of rights acquired under the other schemes, and based on this comparison, to request transfer of these

rights either from the national scheme to the European scheme or, conversely, from the European scheme to the national scheme;

2. in that by providing that the worker concerned must expressly waive the right to transfer from the Belgian scheme to the European scheme or by causing an administrative practice to that effect, without the aforementioned comparison having been made, these provisions mislead or could mislead the worker;
3. and in that these national provisions do not allow years of service as an official of the European Union to be taken into account for the purposes of the grant of an early national pension?

(1) English special edition Series-I I Chapter 1968(II) p. 475.

Reference for a preliminary ruling by the Bundesverwaltungsgerichts by order of that Court of 30 April 2003 in the case of Federal Republic of Germany, represented by the Bundesministerium für Wirtschaft und Technologie against ISIS Multimedia Net GmbH und Co. KG and Firma O2 (Germany) GmbH and Co. OHG

(Cases C-327/03 and C-328/03)

(2003/C 251/07)

Reference has been made to the Court of Justice of the European Communities by order of the Bundesverwaltungsgerichts (Federal Administrative Court) of 30 April 2003, received at the Court Registry on 28 July 2003, for a preliminary ruling in the case of Federal Republic of Germany, represented by the Bundesministerium für Wirtschaft und Technologie against ISIS Multimedia Net GmbH und Co. KG and Firma O2 (Germany) GmbH and Co. OHG on the following questions:

1. Is Directive 97/13/EC (1) of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services (OJ 1997 L 117, p. 15) to be interpreted as meaning that, in respect of the allocation of telephone numbers by the national regulatory authority, a fee taking account of the economic value of the telephone numbers allocated may be imposed even though a telecommunications undertaking operating on the same market and occupying a dominant position on it took over free of charge from its predecessor in law, the former State undertaking with a monopoly, a very large