

Must the provisions of Directive 70/458 ⁽¹⁾ in conjunction with those of Directive 92/33 ⁽²⁾ be interpreted in such a way that it is possible to include in the common catalogue of varieties only varieties of shallots which reproduce without seeds, by vegetative propagation, and, accordingly, could the varieties 'Matador' and 'Ambition' lawfully be included in the common catalogue in the entry dealing with shallots?

⁽¹⁾ Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed (OJ English Special Edition 1970 (III), p. 674).

Reference for a preliminary ruling by the Corte Suprema di Cassazione, Sezione Tributaria, by interlocutory order of that court of 27 October 2003, in the case of IMEG srl Fallita against Comune Carrara

(Case C-149/04)

(2004/C 106/77)

Reference has been made to the Court of Justice of the European Communities by order of the Corte Suprema di Cassazione, Sezione Tributaria (Supreme Court of Cassation, Tax Chamber) (Italy) of 27 October 2003, received at the Court Registry on 23 March 2004, for a preliminary ruling on the following question:

whether an Italian law which establishes a charge on the extraction of marble carried out in a particular municipality and on its export from the territory of that municipality, with exemptions for marble used in the territory of the municipality of production, is compatible with the EC Treaty in so far as:

- (a) the 'marble charge', governed by Law No 749/1911, is a compulsory payment of uncertain legal nature given that it cannot technically be classified as a charge since its amount does not correspond to the supply of services to each taxable person, nor technically as a tax since it bears no relationship to the capacity to pay;
- (b) the 'marble charge', which is used to finance the expenditure of the Municipality of Carrara arising directly or indirectly from the extraction of marble, appears to constitute a type of 'duty' on a commodity in that, after extraction in

⁽²⁾ Council Directive 92/33/EEC of 28 April 1992 on the marketing of vegetable propagating and planting material, other than seed (OJ L 157 of 10.06.1992, p. 1).

the territory of the Municipality of Carrara, it is 'exported' from that territory and gives rise to a toll system (yielding LIT 754,561,665 in 1996) by which the tax authority infringes the principles of the free movement of goods and freedom of competition in the pricing of products, contrary to Articles 23 (ex Article 9) to 31 of the EC Treaty;

- (c) the 'marble charge', which does not apply to extracted marble that does not leave the territory of the Municipality of Carrara, inevitably gives rise to unfavourable treatment of those persons transporting that commodity outside the territory of that municipality, which is incompatible with the rules contained in Articles 81, 85 and 86 of the current text of the Treaty (formerly Articles 85, 89 and 90).

Reference for a preliminary ruling by the Tribunal de Police, Neufchâteau (Belgium) by judgment of that court of 16 January 2004 in the case Ministère public against

(Case C-151/04)

(2004/C 106/78)

Reference has been made to the Court of Justice of the European Communities by judgment of the Tribunal de Police (local criminal court), Neufchâteau (Belgium) of 16 January 2004, which was received at the Court Registry on 25 March 2004, for a preliminary ruling in the case of Ministère public against Claude Nadin - third party to the proceedings: Nadin-Lux SA.

The Tribunal de Police, Neufchâteau (Belgium) asks the Court of Justice to give a preliminary ruling on the following question:

Do Articles 10, 39, 43 and 49 of the EEC Treaty preclude a Member State from adopting a measure requiring a worker who is resident within its territory to register his vehicle there even when that vehicle belongs to his employer, a company established in another Member State and to which that worker is linked by an employment contract but in which at the same time he occupies a the position of shareholder, director, day-to-day manager or similar?