

3. If so, is a national rule which, contrary to Articles 28/30 EC, prohibits the sale of silver jewellery by way of calling on private individuals for the purposes of selling, and collecting orders for, silver jewellery not contrary to the right of an individual to sell silver jewellery by way of calling on private individuals for the purposes of selling, and collecting orders for, silver jewellery?

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**Reference for a preliminary ruling by the Finanzgericht Düsseldorf by order of that court of 13 October 2004 in the case of Possehl Erzkontor GmbH against Hauptzollamt Duisburg**

**(Case C-445/04)**

(2004/C 314/09)

Reference has been made to the Court of Justice of the European Communities by order of the Finanzgericht Düsseldorf (Düsseldorf Finance Court) (Germany) of 13 October 2004, received at the Court Registry on 21 October 2004, for a preliminary ruling in the case of Possehl Erzkontor GmbH against Hauptzollamt Duisburg on the following question:

Does fused magnesia of the kind described in detail in this order, which is caustic-burned from natural mined magnesite and obtained in a second processing stage by fusion in an electric arc furnace, come under subheading 2519 90 10 of Annex I to the Combined Nomenclature?

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**Reference for a preliminary ruling by the Landesgericht Innsbruck by decision of that court of 30 September 2004 in the case of Autohaus Ostermann GmbH against VAV Versicherungs AG**

**(Case C-447/04)**

(2004/C 314/10)

Reference has been made to the Court of Justice of the European Communities by decision of the Landesgericht Innsbruck (Austria) of 30 September 2004, which was received at the Court Registry on 27 October 2004, for a preliminary ruling in the case of Autohaus Ostermann GmbH against VAV Versicherungs AG.

The Landesgericht Innsbruck asks the Court of Justice to give a preliminary ruling on the following question:

Is Article 4(6) of Directive 2000/26/EC of the European Parliament and the Council of 16 May 2000 on the approximation

of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth motor insurance Directive) <sup>(1)</sup> to be interpreted as meaning that the insurance company against which a claim has been made is always subject to a three-month time-limit to deal with the matter, even in the case of a simple factual and legal situation, or that this refers merely to a 'setting of the due date', which does not exclude earlier settlement of the claim by the insurance company after the setting of an 'appropriate' time-limit for payment which is also within the three-month period?

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<sup>(1)</sup> OJ L 181, p. 65.

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**Action brought on 27 October 2004 by the Commission of the European Communities against the Grand Duchy of Luxembourg**

**(Case C-448/04)**

(2004/C 314/11)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 27 October 2004 by the Commission of the European Communities, represented by C. O'Reilly and A.-M. Rouchaud-Joët, acting as Agents, with an address for service in Luxembourg.

The Commission of the European Communities claims that the Court should:

1. declare that, by failing to adopt the laws, regulations and administrative provisions which are necessary in order to comply with Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals <sup>(1)</sup> or, in any event, by failing to inform the Commission of them, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. order the Grand Duchy of Luxembourg to pay the costs.

*Pleas in law and main arguments*

The period for transposing the directive into national law expired on 2 December 2002.

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<sup>(1)</sup> OJ L 149 of 2.6.2001, p. 34.