

Pleas in law and main arguments

The amount referred to in the application represents the duty that the Danish customs authorities omitted to collect in the period 1994-1997 from an undertaking wrongly permitted by the said authorities to import certain goods at zero rate. That permission was given as concerning goods intended for incorporation in or for fitting to or equipping ships, boats or other vessels in accordance with Council Regulation (EEC) No 2658/87⁽²⁾ of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, Annex 1, Section II. The goods were, however, intended for the manufacture of containers and could not, as was later acknowledged by the Danish authorities, be covered by the said provision.

The Danish authorities have unlawfully failed to make the said amount available to the Commission as own resources. The claims made in this connection correspond to those made by the Commission in its application against Denmark in Case C-392/02⁽³⁾.

⁽¹⁾ OJ L 293 of 12.11.1994, p. 9.

⁽²⁾ OJ L 256 of 7.09.1987, p.1.

⁽³⁾ OJ C 31 of 8.02.2003, p. 4.

Reference for a preliminary ruling from the Tribunale Civile e Penale di Forlì by order of that court of 14 December 2004 in the criminal proceedings against K.J.W. Schwibbert

(Case C-20/05)

(2005/C 93/11)

(Language of the case: Italian)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale Civile e Penale di Forlì (Italy) of 14 December 2004, received at the Court Registry on 21 January 2005, for a preliminary ruling in the criminal proceedings pending against K.J.W. Schwibbert on the following questions:

— whether the affixing of the distinctive sign SIAE [società italiana degli autori ed editori] is compatible with Council Directive 92/100/EEC⁽¹⁾ on rental right and lending right and on certain rights related to copyright in the field of intellectual property, and Articles 3 EC and 23 EC to 27 EC;

— whether it is further compatible with Council Directive 83/189/EEC⁽²⁾ and Council Directive 88/182/EEC⁽³⁾.

⁽¹⁾ OJ 1992 L 346 of 27.11.1992, p. 61.

⁽²⁾ OJ 1983 L 109 of 26.04.1983, p. 8.

⁽³⁾ OJ 1988 L 81 of 26.03.1988, p. 75.

Reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) by order of that court of 18 January 2005 in G.J. Dokter, Maatschap Van den Top and W. Boekhout v Minister van Landbouw, Natuur en Voedselkwaliteit

(Case C-28/05)

(2005/C 93/12)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by order of the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (the Netherlands) of 18 January 2005, received at the Court Registry on 28 January 2005, for a preliminary ruling in the proceedings between G.J. Dokter, Maatschap Van den Top and W. Boekhout and Minister van Landbouw, Natuur en Voedselkwaliteit (Minister for Agriculture, Nature and Food Quality) on the following questions:

1. Does the obligation on Member States under the first indent of Article 11(1) of Directive 85/511/EEC,⁽¹⁾ read in conjunction with the second indent of Article 13(1) thereof, to ensure that laboratory testing to detect the presence of FMD is carried out by a laboratory listed in Annex B to Directive 85/511/EEC have direct effect?
2. (a) Must Article 11(1) of Directive 85/511/EEC be interpreted as meaning that legal consequences must be attached to the fact that the presence of FMD is found by a laboratory which is not listed in Annex B to Directive 85/511/EEC?
- (b) If the answer to Question 2a is in the affirmative:

Is the purpose of Article 11(1) of Directive 85/511/EEC to protect the interests of individuals, such as the appellants in the main proceedings? If not, can individuals, such as the appellants in the main proceedings, plead possible failure to fulfil the obligations which this provision places on the authorities of the Member States?