

Reference for a preliminary ruling from the Finanzgericht Münster by order of that court of 5 July 2005 in Columbus Container Services B.V.B.A. & Co. v Finanzamt Bielefeld-Innenstadt

(Case C-298/05)

(2005/C 271/25)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Finanzgericht Münster of 5 July 2005, received at the Court Registry on 26 July 2005, for a preliminary ruling in the proceedings between Columbus Container Services B.V.B.A. & Co. and Finanzamt Bielefeld-Innenstadt on the following question:

Is it contrary to the provisions of Article 52 of the EC Treaty (now Article 43 EC) and Article 73(b) to 73(d) of the EC Treaty (now Articles 56 to 58 EC) for the legislation contained in Paragraph 20(2) and (3) of the Außensteuergesetz (Foreign Transaction Tax Law, hereinafter: the 'AStG') as amended by the Missbrauchsbekämpfung- und Steuerbereinigungsgesetz (Law combating abuse and streamlining taxation) of 21 December 1993 (BGBl 1993 I, p. 2310) to exempt from double taxation the designated passive income of a foreign permanent establishment of a party with unlimited liability to tax in Germany, which would be liable to tax as controlled-foreign-corporation (CFC) income if the permanent establishment were a foreign corporation, by offsetting the foreign tax on earnings levied on the income rather than by exempting the income from taxation in Germany contrary to the double taxation convention between the Federal Republic of Germany and the Kingdom of Belgium of 11 April 1967?

Reference for a preliminary ruling of 13 July 2005 from the Arbitragehof (Belgium) in the proceedings between Advocaten voor de wereld, a non-profit-making association, and the Council of Ministers

(Case C-303/05)

(2005/C 271/26)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by judgment of the Arbitragehof (Court of Arbitration) (Belgium) of 13 July 2005, received at the Court Registry on 29 July 2005, for a preliminary ruling in the proceedings between Advocaten voor de wereld, a non-profit-making association, and the Council of Ministers on the following questions:

1. Is Framework Decision 2002/584/JHA⁽¹⁾ of the Council of the European Union of 13 June 2002 on the European

arrest warrant and the surrender procedures between Member States compatible with Article 34(2)(b) of the Treaty on European Union, under which framework decisions may be adopted only for the purpose of approximation of the laws and regulations of the Member States?

2. Is Article 2(2) of Framework Decision 2002/584/JHA of the Council of the European Union of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, in so far as it sets aside verification of the requirement of double criminality for the offences listed therein, compatible with Article 6(2) of the Treaty on European Union and, more specifically, with the principle of legality in criminal proceedings guaranteed by that provision and with the principle of equality and non-discrimination?

⁽¹⁾ OJ 2002 L 190, p. 1.

Appeal brought on 22 August 2005 by Fred Olsen SA against the judgment delivered on 15 June 2005 by the Court of First Instance of the European Communities (Second Chamber, Extended composition) in Case T-17/02 between Fred Olsen SA and the Commission of the European Communities, supported by the Kingdom of Spain

(Case C-320/05 P)

(2005/C 271/27)

(Language of the case: Spanish)

An appeal against the judgment delivered on 15 June 2005 by the Second Chamber, (Extended Composition), of the Court of First Instance of the European Communities, in Case T-17/02, between Fred Olsen SA and the Commission of the European Communities, supported by the Kingdom of Spain, was brought before the Court of Justice of the European Communities on 22 August 2005 by Fred Olsen SA, represented by R. Marín Correa, lawyer.

The appellant claims that the Court of First Instance should:

- (1) Annul the contested judgment for infringement of the appellant's right to adduce the evidence relevant to its defence, or
- (2) In the alternative, set aside the contested judgment and adopt a fresh judgment annulling the Commission Decision of 25 July 2001⁽¹⁾ on procedure NN 48/2001 concerning State aid, in the terms indicated in the application submitted by Fred Olsen SA.
- (3) Make such other order as it may deem fit, in particular an order as to costs and the costs at first instance to be imposed on the Commission of the European Communities.