Reference for a preliminary ruling from the Hajdú-Bihar Megyei Bíróság by order of that court of 3 March 2005 in Ákos Nádasdi v Vám- és Pénzügyőrség Észak-Alföldi Regionális Parancsnoksága

(Case C-290/05)

(2005/C 296/19)

(Language of the case: Hungarian)

Reference has been made to the Court of Justice of the European Communities by order of the Hajdú-Bihar Megyei Bíróság (Hungary) of 3 March 2005, received at the Court Registry on 19 July 2005, for a preliminary ruling in the proceedings between Ákos Nádasdi and Vám- és Pénzügyőrség Észak-Alföldi Regionális Parancsnoksága on the following questions:

1. Does the first paragraph of Article 90 EC allow Member States to maintain in force a duty on used motor vehicles from other Member States, when that duty is wholly independent of the value of the vehicle and the amount is determined solely on the basis of the technical characteristics of the vehicle (engine type, engine capacity) and its environmental classification?

2. If the answer to the first question is in the affirmative, is Law No CX of 2003 on registration duty, which is applicable in this case, compatible, as regards imported used motor vehicles, with the first paragraph of Article 90 EC when the registration duty is not payable on motor vehicles which were placed in circulation in Hungary before the law in question entered into force?

Reference for a preliminary ruling from the Raad van State by order of that court of 13 July 2005 in the proceedings between Minister voor Vreemdelingenzaken en Integratie and R.N.G. Eind

(Case C-291/05)

(2005/C 296/20)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by order of the Raad van State (Council of State) of 13 July 2005, received at the Court Registry on 20 July 2005, for a preliminary ruling in the proceedings between Minister voor Vreemdelingenzaken en Integratie (Minister for Alien Affairs and Integration) and R.N.G. Eind on the following questions:

Ia. If a national of a non-member country is regarded by a host Member State as a family member of a worker within the terms of Article 10 of Regulation (EEC) No 1612/68 ([1]) of the Council of 15 October 1968 on freedom of movement for workers within the Community, and if the validity of the residence permit granted by that Member State has not yet lapsed, does this mean that the Member State of which the worker is a national may not, for that very reason, deny the national of the non-member country the right of entry and residence on the return of the worker?

Ib. If the previous question has to be answered in the negative, is the Member State itself permitted to determine whether the national of the non-member country satisfies the conditions for entry and residence based on national law on his or her entry, or should that Member State first determine whether the national of the non-member country may still derive rights from Community law as a family member of the worker?

II. Does it make any difference to the answers to the questions under Ia and Ib if, prior to his or her stay in the host Member State, the national of the non-member country has had no right of residence based on national law in the Member State of which the worker is a national?

IIIa. If the Member State of which a worker (the reference person) is a national is permitted, on the worker's return, itself to determine whether the conditions laid down in Community law for the issue of a residence permit as a family member are still fulfilled, does a national of a non-member country who is a family member of the reference person, who returns from the host Member State to the Member State of which he is a national in order to seek employment there, have a right of residence in the latter Member State and, if so, for how long?

IIIb. Does that right also exist if the reference person does not perform any genuine and actual work in the latter Member State and cannot, or can no longer, be regarded as seeking employment, in the context of Council Directive 90/364/EEC ([2]) of 28 June 1990 on the right of residence, given *inter alia* that the reference person is in receipt of a welfare benefit by virtue of his Netherlands nationality?

IV. What significance for the answers to the previous questions is to be attached to the fact that the national of the non-member country is a family member of a citizen of the Union who has exercised the right he enjoys under Article 18 of the Treaty establishing the European Community and has returned to the Member State of which he is a national?

(1) OJ, English Special Edition 1968(II), p. 475.
(2) OJ 1990 L 180, p. 26.

Reference for a preliminary ruling from the Raad van State (Council of State) by order of that court of 19 July 2005 in Minister for immigration and integration v Mr I. Günes

(Case C-296/05)

(2005/C 296/21)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by order of the Raad van State (Council of State) of 19 July 2005, received at the Court Registry on 22 July 2005, for a preliminary ruling in the proceedings between the Minister for immigration and integration and Mr I. Günes on the following questions:

1. Must the concept of restriction in Article 41(1) of the additional protocol be interpreted as subsuming within it the requirement of a temporary residence authorisation to be applied for, under Article 3.71, first paragraph, of the Vb 2000, by a foreigner who is a Turkish national in that country or the country of permanent residence and in regard to which he must await a decision prior to coming to the Netherlands in the absence of which his application for leave to remain must be rejected?

2a. If the reply to Question 1 is affirmative, must Article 41(1) of the additional protocol then be construed as meaning that a new restriction within the meaning of that provision is also constituted by a tightening of the national rules in regard to the requirement to be in possession of a temporary residence authorisation following a post-January 1973 relaxation of that requirement?

2b. Is the reply to Question 2a different if the relaxation concerning the requirement of possession of a temporary residence authorisation was effected not in regard to the regulatory provision itself but in regard to policy and implementing practice?

Action brought on 22 July 2005 by the Commission of the European Communities against the Kingdom of the Netherlands

(Case C-297/05)

(2005/C 296/22)

(Language of the case: Dutch)

An action against the Kingdom of the Netherlands was brought before the Court of Justice of the European Communities on 22 July 2005 by the Commission of the European Communities, represented by Michel van Beek and Désirée Zijlstra, acting as Agents.

The applicant claims that the Court should:

1. declare that, by requiring motor vehicles which have previously been registered in another Member State to undergo a technical examination before they can be registered in the Netherlands, where no such examination is required in the case where a motor vehicle previously registered in the Netherlands is transferred to the ownership or control of another person established there, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 28 EC and 30 EC;

2. order the Kingdom of the Netherlands to pay the costs of the proceedings.

Pleas in law and main arguments

The technical examinations which the Netherlands require motor vehicles previously registered in another Member State to undergo as a precondition of entry in the national vehicle licence plate register cannot be justified in the light of the objectives mentioned in Article 30 EC or for the purpose of meeting any mandatory requirement as recognised in the Court's case-law.