JUDGMENT OF THE COURT

(Second Chamber)

of 9 February 2006

in Joined Cases C-23/04 to C-25/04: Reference for a preliminary ruling from the Diikitiko Protodikio Athinon in Sfakianakis AEVE v Elliniko Dimosio ([1])

(Association Agreement EEC-Hungary — Obligation of mutual assistance between customs authorities — Post-clearance recovery of import duties following revocation in the State of export of the movement)

(2006/C 86/08)

(Language of the case: Greek)

In Joined Cases C-23/04 to C-25/04: reference for a preliminary ruling under Article 234 EC from the Diikitiko Protodikio Athinon (Greece), made by decision of 30 September 2003, received at the Court on 26 January 2004, in the proceedings between Sfakianakis AEVE and Elliniko Dimosio — the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, J. Makarczyk, R. Silva de Lapuerta (Rapporteur), P. Kūris and G. Arestis, Judges; P. Léger, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 9 February 2006, in which it ruled:

1. *Articles 31(2) and 32 of Protocol 4 to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, as amended by Decision No 3/96 of the Association Council between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, of 28 December 1996, are to be interpreted as meaning that the customs authorities of the State of import are bound to take account of judicial decisions delivered in the State of export on actions brought against the results of verification of the validity of goods movement certificates conducted by the customs authorities of the State of export, once they have been informed of the existence of those actions and the content of those decisions, regardless of whether the verification of the validity of the movement certificates was carried out at the request of the customs authorities of the State of import.*

2. *The effectiveness of the abolition of the imposition of customs duties under the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, concluded and approved by the decision of the Council and the Commission of 13 December 1993, precludes administrative decisions imposing the payment of customs duties, taxes and penalties taken by the customs authorities of the State of import before the definitive result of actions brought against the findings of the subsequent verification have been communicated to them, when the decisions of the authorities of the State of export which initially issued the EUR.1 certificates have not been revoked or annulled.*

3. *The answer to the first three questions is not affected by the fact that neither the Greek customs authorities nor the Hungarian customs authorities sought convocation of the Association Committee pursuant to Article 33 of Protocol No 4, as amended by Decision 3/96.*

([1]) OJ C 71, 20.03.2004.
OJ C 85, 03.04.2004.

JUDGMENT OF THE COURT

(First Chamber)

of 9 February 2006

in Case C-127/04: Reference for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division in Declan O'Byrne v Sanofi Pasteur MSD Ltd, Sanofi Pasteur SA ([1])

(Directive 85/374/EEC — Liability for defective products — Definition of 'putting into circulation' of the product — Supply by the producer to a wholly owned subsidiary)

(2006/C 86/09)

(Language of the case: English)

In Case C-127/04: reference for a preliminary ruling under Article 234 EC from the High Court of Justice of England and Wales, Queen's Bench Division (United Kingdom), made by decision of 18 November 2003, received at the Court on 8 March 2004, in the proceedings between Declan O'Byrne and Sanofi Pasteur MSD Ltd, formerly Aventis Pasteur MSD Ltd, Sanofi Pasteur SA, formerly Aventis Pasteur SA, — the Court (First Chamber), composed of P. Jann (Rapporteur), President of the Chamber, K. Schiemann, K. Lenaerts, E. Juhász and M. Ilešič, Judges; L.A. Geelhoed, Advocate General; M. Ferreira, Principal Administrator, for the, for the Registrar, gave a judgment on 9 February 2006, in which it ruled:

1. *Article 11 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, is to be interpreted as meaning that a product is put into circulation when it is taken out of the manufacturing process operated by the producer and enters a marketing process in the form in which it is offered to the public in order to be used or consumed.*

2. *When an action is brought against a company mistakenly considered to be the producer of a product whereas, in reality, it was manufactured by another company, it is as a rule for national law to determine the conditions in accordance with which one party may be substituted for another in the context of such an action. A national court examining the conditions governing such a substitution must, however, ensure that due regard is had to the personal scope of Directive 85/374, as established by Articles 1 and 3 thereof.*

([1]) OJ C 106, 30.04.2004.

JUDGMENT OF THE COURT

(First Chamber)

of 16 February 2006

in Case C-215/04: Reference for a preliminary ruling from the Østre Landsret in Marius Pedersen A/S v Miljøstyrelsen ([1])

(Waste — Transfer of waste — Waste intended for recovery operations — Concept of 'notifier' — Notifier's obligations)

(2006/C 86/10)

(Language of the case: Danish)

In Case C-215/04: reference for a preliminary ruling under Article 234 EC from the Østre Landsret (Denmark), made by decision of 14 May 2004, received at the Court on 21 May 2004, in the proceedings between **Marius Pedersen A/S** and **Miljøstyrelsen** — the Court (First Chamber), composed of P. Jann, President of the Chamber, K. Schiemann (Rapporteur), N. Colneric, J.N. Cunha Rodrigues and E. Levits, Judges; P. Léger, Advocate General; M. Ferreira, Principal Administrator, gave a judgment on 16 February 2006, the operative part of which is as follows:

1. *The phrase 'where this is not possible' in Article 2(g)(ii) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community must be interpreted as meaning that the simple fact that a person is a licensed collector does not confer on him the status of notifier of a shipment of waste for recovery. However, the situation that the producer of the waste is unknown or that the number of waste producers is so great and the individual contribution of each of them so small that it would be unreasonable for each individually to be required to notify the transport of the waste may justify the licensed collector being considered as the notifier of a shipment of waste for recovery;*

2. *The competent authority of dispatch is entitled, pursuant to Article 7(2) and the first indent of Article 7(4)(a) of Regulation No 259/93, to object to a shipment of waste in the absence of information on the conditions of recovery of that waste in the State of destination. However, the notifier cannot be required to prove that the recovery in the State of destination will be equivalent to that required by the rules in the State of dispatch;*

3. *The first indent of Article 6(5) of Regulation No 259/93 must be interpreted as meaning that the obligation to supply information relating to the composition of the waste is not satisfied by the notifier declaring a category of waste under the heading 'electronic scrap';*

4. *The period in Article 7(2) of Regulation No 259/93 begins to run when the competent authorities of the State of destination have sent the acknowledgement of receipt of the notification, irrespective of the fact that the competent authorities of the State of dispatch do not consider that they have received all of the information set out in Article 6(5) of that regulation. The effect of the expiry of that time-limit is that the competent authorities can no longer raise objections to the shipment or request additional information from the notifier.*

([1]) OJ C 190, 24.7.2004.