

Reference for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on 14 September 2006 — BATIG Gesellschaft für Beteiligungen mbH v Hauptzollamt Bielefeld

(Case C-374/06)

(2006/C 326/49)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: BATIG Gesellschaft für Beteiligungen mbH

Defendant: Hauptzollamt Bielefeld

Question referred

Should Council Directive 92/12/EEC⁽¹⁾ of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products be interpreted as meaning that a Member State which has collected excise duty for manufactured tobacco by means of issuing tax markings is obliged to reimburse the recipient of the tax markings for the sum paid for them if manufactured tobacco furnished with those tax markings in another Member State departs from the duty suspension arrangement irregularly with the consequence that the latter Member State collects excise duty for the manufactured tobacco from the trader established there who dispatched the manufactured tobacco under intra-community duty-suspension arrangements?

⁽¹⁾ OJ 1992 L 76, p. 1.

Reference for a preliminary ruling from the Verwaltungsgericht Köln (Germany) lodged on 9 October 2006 — Winner Wetten GmbH v Mayor of Bergheim

(Case C-409/06)

(2006/C 326/50)

Language of the case: German

Referring court

Verwaltungsgericht Köln

Parties to the main proceedings

Applicant: Winner Wetten GmbH

Defendant: Mayor of Bergheim

Questions referred

1. Are Article 43 EC and Article 49 EC to be interpreted as meaning that national rules governing a State monopoly on sports betting, which contain impermissible restrictions on the freedom of establishment and the freedom to provide services enshrined in Article 43 EC and Article 49 EC, inasmuch as they do not serve to limit betting activities in a consistent and systematic manner within the terms of the Court's case-law (judgment in Case C-243/01 *Gambelli and Others* [2003] ECR-I 3031), may still continue to apply for a transitional period on an exceptional basis, notwithstanding the primacy of directly applicable Community law?
2. If Question 1 is to be answered in the affirmative: what conditions need to be met for the purpose of derogating from that primacy and how is the transitional period to be determined?

Appeal brought on 10 October 2006 by Bertelsmann AG, Sony Corporation of America against the judgment of the Court of First Instance (Third Chamber) delivered on 13 July 2006 in Case T-464/04: Independent Music Publishers and Labels Association (Impala, international association) v Commission of the European Communities.

(Case C-413/06 P)

(2006/C 326/51)

Language of the case: English

Parties

Appellants: Bertelsmann AG, Sony Corporation of America (represented by: P. Chappatte, J. Boyce, Solicitors, N. Levy, Barrister, R. Snelders, avocat, T. Graf, Rechtsanwalt)

Other parties to the proceedings: Commission of the European Communities, Independent Music Publishers and Labels Association (Impala, association internationale), Sony BMG Music Entertainment BV

Form of order sought

The applicant claims that the Court should:

- annul the judgment of the Court of First Instance of 13 July 2006 in Case T-464/04;
- reject Impala's application for annulment of the Commission's decision or, alternatively, refer the case back for reconsideration to the Court of First Instance; and
- order Impala to pay the costs of the present proceedings.