

Question(s) referred

1. Must the limitation period prescribed in the first sentence of the first subparagraph of Article 3(1) of Council Regulation (EC, EURATOM) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽¹⁾ be applied even if an irregularity was committed or ceased before Regulation (EC, EURATOM) No 2988/95 entered into force?
2. Is the limitation period prescribed in that provision applicable in general to administrative measures such as the recovery of export refunds granted as a result of irregularities?

If the answers to those questions are in the affirmative:

3. May a longer period pursuant to Article 3(3) of Regulation (EC, EURATOM) No 2988/95 be applied by a Member State even if such a longer period was already provided for in the law of the Member State before the abovementioned regulation was adopted? May such a longer period be applied even if it was not prescribed in a specific provision for the recovery of export refunds or for administrative measures in general, but resulted from a general rule of the Member State concerned covering all limitation cases not specifically regulated ('catch-all' provision)?

⁽¹⁾ OJ 1995 L 312, p. 1.

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 13 June 2007 — Ze Fu Fleischhandel GmbH v Hauptzollamt Hamburg-Jonas

(Case C-280/07)

(2007/C 211/30)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Ze Fu Fleischhandel GmbH

Defendant: Hauptzollamt Hamburg-Jonas

Questions referred

1. Must the limitation period prescribed in the first sentence of the first subparagraph of Article 3(1) of Council Regulation (EC, EURATOM) No 2988/95 ⁽¹⁾ of 18 December 1995 on the protection of the European Communities' financial interests be applied even if an irregularity was committed or ceased before Regulation (EC, EURATOM) No 2988/95 entered into force?
2. Is the limitation period prescribed in that provision applicable in general to administrative measures such as the recovery of export refunds granted as a result of irregularities?

If the answers to those questions are in the affirmative:

3. May a longer period pursuant to Article 3(3) of Regulation (EC, EURATOM) No 2988/95 be applied by a Member State even if such a longer period was already provided for in the law of the Member State before the abovementioned regulation was adopted? May such a longer period be applied even if it was not prescribed in a specific provision for the recovery of export refunds or for administrative measures in general, but resulted from a general rule of the Member State concerned covering all limitation cases not specifically regulated ('catch-all' provision)?

⁽¹⁾ OJ 1995 L 312, p. 1.

Reference for a preliminary ruling from the Bundesfinanzhof (Germany), lodged on 13 June 2007 — Bayerische Hypotheken- und Vereinsbank AG v Hauptzollamt Hamburg-Jonas

(Case C-281/07)

(2007/C 211/31)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Bayerische Hypotheken- und Vereinsbank AG

Defendant: Hauptzollamt Hamburg-Jonas

Questions referred

1. Must the first sentence of the first subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽¹⁾ be applied to a claim for recovery of an export refund wrongly granted to an exporter, even if the latter did not commit an irregularity?

If this question is to be answered in the affirmative:

2. Must this provision be applied *mutatis mutandis* to a claim for recovery of such benefits from the party to which the exporter has assigned its claim to the export refund?

⁽¹⁾ OJ 1995 L 312, p. 1.

Action brought on 13 June 2007 — Commission v Grand Duchy of Luxembourg

(Case C-286/07)

(2007/C 211/32)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky, Agent)

Defendant: Grand Duchy of Luxembourg

Form of order sought

- declare that, by requiring the submission of an excerpt from the seller's entry on the commercial register for the purpose of registering vehicles which have previously been registered in another Member State, where no such excerpt is required for vehicles which have previously been registered in Luxembourg, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 28 EC;
- order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

By its action, the Commission criticises the conditions imposed by the defendant for the registration of second-hand vehicles which have previously been registered in another Member State.

By making the registration of these vehicles in Luxembourg subject to additional document checks and, in particular, the submission of an official excerpt from the entry on the commercial register of the vehicle's seller, the defendant has effectively made it less attractive to import vehicles which had previously been registered in another Member State and is therefore hindering the free movement of these goods.

This barrier to trade, prohibited by Article 28 EC, is all the more serious as it predominantly affects imported vehicles, with second-hand vehicles that had previously been registered in Luxembourg not apparently subject to the same document checks.

Besides, the reasons that the defendant has given for this barrier to trade are not very convincing, particular in so far as the defendant already has important means of control at its disposal to ensure that the vehicles at issue have not been stolen and, in any event, less radical measures than an outright refusal to register the vehicle can be envisaged if the requisite excerpt from the commercial register is unavailable, such as, for example, suspension of the registration procedure for the time required by the administrative authorities to run checks.

Action brought on 14 June 2007 — Commission of the European Communities v Kingdom of Belgium

(Case C-287/07)

(2007/C 211/33)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky and D. Kukovec, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

1. Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ⁽¹⁾, the Kingdom of Belgium has failed to fulfil its obligations under Article 71 of that directive;