

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Reference for a preliminary ruling from the Thüringer Oberlandesgericht (Germany) lodged on 19 May 2008 — Wasser- und Abwasserzweckverband Gotha und Landkreisgemeinden (WAZV Gotha) v Eurawasser Aufbereitungs- und Entsorgungsgesellschaft mbH

(Case C-206/08)

(2008/C 247/02)

*Language of the case: German***Referring court**

Thüringer Oberlandesgericht

Parties to the main proceedings

Appellant: Wasser- und Abwasserzweckverband Gotha und Landkreisgemeinden (WAZV Gotha)

Respondent: Eurawasser Aufbereitungs- und Entsorgungsgesellschaft mbH

Questions referred

1. Is a contract for the supply of services (here, the supply of water and treatment of waste water), the content of which does not provide for the contracting authority to make a direct payment of consideration to the supplier but for the supplier to be afforded the right to collect consideration under private law from third parties, to be classified for that reason alone as a service concession within the meaning of Article 1(3)(b) of 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⁾, as distinct from a service contract for pecuniary interest within the meaning of Article 1(2)(a) and (d) of Directive 2004/17?
2. If the first question is answered in the negative, does a contract of the kind described in the first question constitute a service concession if the risk connected with operating the

service in question, because of the rules of public law governing it (compulsory connection and usage; prices calculated on a break-even basis), is significantly limited from the outset — that is to say, even if the contracting authority were to provide the service itself — but the supplier assumes that limited risk in full or at least to a predominant extent?

3. If the second question is also answered in the negative, is Article 1(3)(b) of Directive 2004/17 to be interpreted as meaning that the degree of risk connected with operating the service, particularly the marketing risk, must in qualitative terms be comparable to that which normally exists under conditions in a free market with more than one competing tenderer?

⁽¹⁾ OJ 2004 L 134, p. 1.

Reference for a preliminary ruling from the Budaörsi Városi Bíróság (Hungary) lodged on 2 June 2008 — Pannon GSM Zrt. v Erzsébet Sustikné Gyórfi

(Case C-243/08)

(2008/C 247/03)

*Language of the case: Hungarian***Referring court**

Budaörsi Városi Bíróság

Parties to the main proceedings*Applicant:* Pannon GSM Zrt.*Defendant:* Erzsébet Sustikné Gyórfi

Questions referred

1. Can Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ⁽¹⁾ — pursuant to which Member States are to provide that unfair terms used in a contract concluded with a consumer by a seller or supplier shall, as provided for under their national law, not be binding on the consumer — be construed as meaning that the non-binding nature *vis-à-vis* the consumer of an unfair term introduced by the seller or supplier does not have effect *ipso jure* but only where the consumer successfully contests the unfair term by lodging the relevant application?
2. Does the consumer protection provided by Directive 93/13/EEC require the national court of its own motion — irrespective of the type of proceedings in question and of whether or not they are contentious — to determine that the contract before it contains unfair terms, even where no application contesting the unfair nature of the term has been lodged, thereby carrying out, of its own motion, a review of the terms introduced by the seller or supplier in the context of exercising control over its own jurisdiction?
3. In the event that the second question is answered in the affirmative, what are the factors which the national court must take into account and evaluate in the context of exercising this control?

⁽¹⁾ OJ 1993 L 95, p. 29.

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 18 June 2008 — Bundesfinanzdirektion West v HEKO Industrierzeugnisse GmbH

(Case C-260/08)

(2008/C 247/04)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Bundesfinanzdirektion West

Respondent: HEKO Industrierzeugnisse GmbH

Question referred

Is the only substantial processing or working of products coming under heading 7312 of the Combined Nomenclature which confers non-preferential origin in accordance with Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾ that which has the effect that the product resulting from that processing or working is to be classified under a different heading of the Combined Nomenclature?

⁽¹⁾ OJ 1992 L 302, p. 1.

Reference for a preliminary ruling from the Hof van Cassatie van België lodged on 19 June 2008 — Belgische Staat v Direct Parcel Distribution Belgium NV

(Case C-264/08)

(2008/C 247/05)

Language of the case: Dutch

Referring court

Hof van Cassatie van België

Parties to the main proceedings

Appellant: Belgische Staat

Respondent: Direct Parcel Distribution Belgium NV

Questions referred

1. Is the entry in the accounts referred to in Article 221 of the Community Customs Code ⁽¹⁾ the same as the entry in the accounts referred to in Article 217, which consists in the amount of duty being entered by the customs authorities in the accounting records or on any other equivalent medium?
2. If the first question is answered in the affirmative, how is the rule laid down in Article 217 of the Community Customs Code that the amount of duty is to be 'entered ... in the accounting records or on any other equivalent medium' to be construed? Are certain technical or formal minimum requirements attached thereto, or does Article 217 leave the establishment of more detailed rules on the practice of entering the amount of duty in the accounts entirely to the Member States, without imposing any minimum requirements? Should that entry in the accounts be distinguished