

Judgment of the Court (Fourth Chamber) of 5 May 2011
(references for a preliminary ruling from the Finanzgericht
Hamburg (Germany)) — Ze Fu Fleischhandel GmbH
(C-201/10), Vion Trading GmbH (C-202/10) v
Hauptzollamt Hamburg-Jonas

(Joined Cases C-201/10 and C-202/10) ⁽¹⁾

(Regulation (EC, Euratom) No 2988/95 — Protection of the
European Union's financial interests — Article 3 — Recovery
of an export refund — 30-year limitation period — Limi-
tation rule forming part of the general civil law of a
Member State — Application 'by analogy' — Principle of
legal certainty — Principle of the protection of legitimate
expectations — Principle of proportionality)

(2011/C 194/08)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicants: Ze Fu Fleischhandel GmbH (C-201/10), Vion Trading GmbH (C-202/10)

Defendant: Hauptzollamt Hamburg-Jonas

Re:

References for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 3(3) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ 1995 L 312, p. 1) — Recovery of an export refund wrongly received by the exporter by reason of irregularities committed by the latter — Application of national legislation providing for a 30-year limitation period — Principles of legal certainty and proportionality

Operative part of the judgment

1. In circumstances such as those at issue in the cases in the main proceedings, the principle of legal certainty does not preclude in principle, in the context of the protection — as defined by Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests — of the European Union's financial interests and pursuant to Article 3(3) of that regulation, the national authorities and courts of a Member State from applying 'by analogy' to proceedings relating to repayment of a wrongly granted export refund a limitation period derived from a general provision of national law,

provided, however, that such application resulting from a judicially determined practice was sufficiently foreseeable, a matter which it is for the referring court to establish.

2. In circumstances such as those at issue in the cases in the main proceedings, the principle of proportionality precludes, in the context of exercise by the Member States of the power which they are given by Article 3(3) of Regulation No 2988/95, application of a 30-year limitation period to proceedings relating to repayment of wrongly received refunds.
3. In circumstances such as those at issue in the cases in the main proceedings, the principle of legal certainty precludes a 'longer' limitation period within the meaning of Article 3(3) of Regulation No 2988/95 from resulting from a limitation period under the general law that is reduced by case-law so that, when applied, it complies with the principle of proportionality, since, in any event, the four-year limitation period provided for in the first subparagraph of Article 3(1) of Regulation No 2988/95 can be applied in such circumstances.

⁽¹⁾ OJ C 209, 31.7.2010.

Judgment of the Court (Third Chamber) of 12 May 2011
(reference for a preliminary ruling from the Augstākās
Tiesas Senāts (Republic of Latvia)) — Andrejs Eglītis,
Edvards Ratnieks v Latvijas Republikas Ekonomikas
ministrija

(Case C-294/10) ⁽¹⁾

(Air transport — Regulation (EC) No 261/2004 — Article
5(3) — Compensation of passengers in the event of cancel-
lation of a flight — Exemption from the obligation to pay
compensation in the event of extraordinary circumstances —
Implementation, by the air carrier, of all reasonable measures
to avoid extraordinary circumstances — Organisation of
resources in good time to be able to ensure the operation of
the flight after such circumstances have ended)

(2011/C 194/09)

Language of the case: Latvian

Referring court

Augstākās Tiesas Senāts

Parties to the main proceedings

Applicants: Andrejs Eglītis, Edvards Ratnieks

Defendant: Latvijas Republikas Ekonomikas ministrija