Reference for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 23 December 2010 — Insinööritoimisto InsTiimi Oy

(Case C-615/10)

(2011/C 72/23)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Appellant: Insinööritoimisto InsTiimi Oy

Other party: Puolustusvoimat

Question referred

Is Directive 2004/18/EC [1] of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts applicable, having regard to Article 10 of that directive and to Article 346(1)(b) of the Treaty on the Functioning of the European Union and to the list of arms, munitions and war material adopted by decision of the Council on 15 April 1958, to a procurement which otherwise falls within the scope of the directive, when according to the contracting entity the intended purpose of the object of procurement is specifically military, but there also exist largely identical technical applications of the object of procurement in the civilian market?

[1] OJ 2004 L 134, p. 114.

Reference for a preliminary ruling from the Haparanda Tingsrätten (Sweden) lodged on 27 December 2010 — Åklagaren v Hans Åkerberg Fransson

(Case C-617/10)

(2011/C 72/24)

Language of the case: Swedish

Referring court

Haparanda Tingsrätten

Parties to the main proceedings

Applicant: Åklagaren

Defendant: Hans Åkerberg Fransson

Questions referred

1. Under Swedish law there must be clear support in the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms (ECHR) or the case-law of the European Court of Human Rights for a national court to be able to disapply national provisions which may be suspected of infringing the *ne bis in idem* principle under Article 4 of Additional Protocol No 7 to the ECHR and may also therefore be suspected of infringing Article 50 of the Charter of Fundamental Rights of the European Union of 7 December 2000 ('the Charter'). Is such a condition under national law for disapplying national provisions compatible with Union law and in particular its general principles, including the primacy and direct effect of Union law?

2. Does the admissibility of a charge of tax offences come under the *ne bis in idem* principle under Article 4 of Additional Protocol No 7 to the ECHR and Article 50 of the Charter where a certain financial penalty (tax surcharge) was previously imposed on the defendant in administrative proceedings by reason of the same act of providing false information?

3. Is the answer to Question 2 affected by the fact that there must be coordination of these sanctions in such a way that ordinary courts are able to reduce the penalty in the criminal proceedings because a tax surcharge has also been imposed on the defendant by reason of the same act of providing false information?

4. Under certain circumstances it may be permitted, within the scope of the *ne bis in idem* principle mentioned in Question 2, to order further sanctions in fresh proceedings in respect of the same conduct which was examined and led to a decision to impose sanctions on the individual. If Question 2 is answered in the affirmative, are the conditions under the *ne bis in idem* principle for the imposition of several sanctions in separate proceedings satisfied where in the later proceedings there is an examination of the circumstances of the case which is fresh and independent of the earlier proceedings?

5. The Swedish system of imposing tax surcharges and examining liability for tax offences in separate proceedings is motivated by a number of reasons of general interest, which are described in greater detail below. If Question 2 is answered in the affirmative, is a system like the Swedish one compatible with the *ne bis in idem* principle when it would be possible to establish a system which would not come under the *ne bis in idem* principle without it being necessary to refrain from either imposing tax surcharges or ruling on liability for tax offences by, if liability for tax

offences is relevant, transferring the decision on the imposition of tax surcharges from the Skatteverket and, where appropriate, administrative courts to ordinary courts in connection with their examination of the charge of tax offences?

Reference for a preliminary ruling from the Latvijas Republikas Augstâkâs tiesas Senâts (Republic of Latvia) lodged on 29 December 2010 — Trade Agency Limited v Seramico Investments Limited

(Case C-619/10)

(2011/C 72/25)

Language of the case: Latvian

Referring court

Latvijas Republikas Augstâkâs tiesas Senâts

Parties to the main proceedings

Applicant: Trade Agency Limited

Defendant: Seramico Investments Limited

Questions referred

1. Where a decision of a foreign court is accompanied by the certificate provided for in Article 54 of Regulation No 44/2001 ([1]), but the defendant nevertheless objects on the ground that he was not served with notice of the action brought in the Member State of origin, is a court in the Member State where enforcement is sought competent, when considering a ground for withholding recognition provided for in Article 34(2) of Regulation No 44/2001, to examine for itself the conformity with the evidence of the information contained in the certificate? Is such wide jurisdiction on the part of a court in the Member State in which enforcement is sought compatible with the principle of mutual trust in the administration of justice set out in recitals 16 and 17 to Regulation No 44/2001?

2. Is a decision given in default of appearance, which disposes of the substance of a dispute without examining either the subject-matter of the claim or the grounds on which it is based and sets out no reasoning as to the substantive basis of the claim, compatible with Article 47 of the Charter and does it not infringe the defendant's right to a fair hearing, laid down by the provision?

([1]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Reference for a preliminary ruling from the Kammarrätten I Stockholm — Migrationsöverdomstolen (Sweden) lodged on 27 December 2010 — Migrationsverket v Nurije Kastrati, Valdrina Kastrati, Valdrin Kastrati

(Case C-620/10)

(2011/C 72/26)

Language of the case: Swedish

Referring court

Kammarrätten I Stockholm — Migrationsöverdomstolen

Parties to the main proceedings

Applicant: Migrationsverket

Defendants: Nurije Kastrati, Valdrina Kastrati, Valdrin Kastrati

Questions referred

1. In the light inter alia of the stipulations of Article 5(2) of Regulation No 343/2003 ([1]) and/or the absence of provisions in the regulation on the cessation of a Member State's responsibility to examine an asylum application other than those contained in the second subparagraph of Article 4(5) and Article 16(3) and (4), is Regulation No 343/2003 to be interpreted as meaning that the withdrawal of an asylum application does not affect the possibility of applying the regulation?

2. Is the stage in the process at which the asylum application is withdrawn relevant in answering the question set out above?

([1]) Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ 2003 L 50, p. 1

Reference for a preliminary ruling from the Administrativen sad Varna (Bulgaria) lodged on 29 December 2010 — 'Balkan and Sea Properties' ADSITS v Director of the Varna Office 'Appeals and the Administration of Enforcement' (Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' — Varna)

(Case C-621/10)

(2011/C 72/27)

Language of the case: Bulgarian

Referring court

Administrativen sad Varna