

**Judgment of the Court (Sixth Chamber) of 22 October 2014 — Kingdom of Spain v European Commission**

(Case C-429/13 P) <sup>(1)</sup>

**(Appeal — Cohesion fund — Reduction of financial assistance — Irregularities in the application of the public procurement legislation — Adoption of the decision by the European Commission — Failure to comply with the time-limit — Consequences)**

(2014/C 439/13)

Language of the case: Spanish

**Parties**

Appellant: Kingdom of Spain (represented by: A. Rubio González, acting as Agent)

Other party to the proceedings: European Commission (represented by: B. Conte and A. Tokár, acting as Agents, assisted by J. Rivas Andrés, abogado)

**Operative part of the judgment**

The Court:

1. Sets aside the judgment of the General Court of the European Union in *Spain v Commission* (T-384/10, EU:T:2013:277);
2. Annuls Commission Decision C(2010) 4147 of 30 June 2010, reducing the assistance granted from the Cohesion Fund to the following (groups of) projects: 'Water supply to settlements in the Guadiana basin: Andévalo area' (2000.ES.16.C.PE.133), 'Drainage and water treatment in the Guadalquivir basin: Guadaira, Aljarafe and the areas of natural protection of the Guadalquivir' (2000.ES.16.C.PE.066) and 'Water supply to multi-municipal systems in the provinces of Granada and Malaga' (2002.ES.16.C.PE.061);
3. Orders the European Commission to pay the costs of the Kingdom of Spain and to bear its own costs of both the proceedings at first instance and of the present appeal proceedings.

<sup>(1)</sup> OJ C 260, 7.9.2013.

**Judgment of the Court (Sixth Chamber) of 23 October 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Unitrading Ltd v Staatssecretaris van Financiën**

(Case C-437/13) <sup>(1)</sup>

**(Reference for a preliminary ruling — Community Customs Code — Recovery of import duties — Origin of goods — Means of proof — Charter of Fundamental Rights of the European Union — Article 47 — Rights of the defence — Right to effective judicial protection — Procedural autonomy of the Member States)**

(2014/C 439/14)

Language of the case: Dutch

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

Applicant: Unitrading Ltd

Defendant: Staatssecretaris van Financiën

### Operative part of the judgment

1. Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding proof of origin of imported goods adduced by the customs authorities on the basis of national procedural rules resting on the results of an examination carried out by a third party, with regard to which that third party refuses to disclose further information either to the customs authorities or to the customs declarant, as a result of which it is made difficult or impossible to verify or disprove the correctness of the conclusions reached, provided that the principles of effectiveness and equivalence are upheld. It is for the national court to ascertain whether that is so in the main proceedings.
2. In a situation such as that at issue in the main proceedings, and when the customs authorities cannot disclose further information in respect of the examination carried out, whether the customs authorities must grant the request of the party concerned that it conducts, at its own expense, an examination in the country declared as the country of origin and whether it matters that portions of the samples of the goods, to which the party concerned could have obtained access with a view to having an examination carried out by another laboratory, were still available for a limited period and, if so, whether the customs authorities must inform the party concerned that portions of the samples of the goods are still available and that it may request those samples for purposes of such an examination must be assessed on the basis of national procedural law.

<sup>(1)</sup> OJ C 325, 9.11.2013.

**Judgment of the Court (Fifth Chamber) of 9 October 2014 (request for a preliminary ruling from the Administrativen sad Varna — Bulgaria) — Traum EOOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite**

(Case C-492/13) <sup>(1)</sup>

**(Reference for a preliminary ruling — Taxation — VAT — Directive 2006/112/EC — Article 138(1) — Exemptions for intra-Community transactions — Purchaser not registered for VAT purposes — Whether the vendor is required to establish the authenticity of the signature of the purchaser or his representative — Principles of proportionality, legal certainty and protection of legitimate expectations — Direct effect)**

(2014/C 439/15)

Language of the case: Bulgarian

### Referring court

Administrativen sad Varna

### Parties to the main proceedings

Applicant: Traum EOOD

Defendant: Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

### Operative part of the judgment

- 1) Articles 138(1) and 139(1), second subparagraph, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/88/EU of 7 December 2010, must be interpreted as precluding, in circumstances such as those in the main proceedings, the tax authorities of a Member State from refusing to grant an exemption from value added tax in respect of an intra-Community supply of goods on the ground that the purchaser was not registered for value added tax purposes in another Member State and the supplier has proven neither the authenticity of the signature on the documents submitted in support of its declaration in respect of a supply it claims to be exempt from value added tax nor that the person who signed those documents on behalf of the purchaser had the authority to represent the purchaser, where the evidence establishing entitlement to the exemption submitted by the supplier in support of its declaration is consistent with the list of documents to be submitted to those authorities under national law and has been accepted by them, initially, as supporting evidence, which is a matter for the referring court to verify.