

cover for purposes of the 'Altersrente' (old-age pension) and is not entitled to 'Kindergeld' (child allowance)?

- 3b. Is it significant, for purposes of the answer to Question 3(a), that it was possible to take out voluntary insurance under the AOW or to request the Svb (Netherlands Social Insurance Bank) to conclude an agreement as referred to in Article 17 of Regulation No 1408/71?

⁽¹⁾ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ, English Special Edition 1971(II), p. 416).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 5 July 2013 — Estación de Servicio Pozuelo 4, S.L. v GALP Energía España, S.A.U.

(Case C-384/13)

(2013/C 274/15)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: Estación de Servicio Pozuelo 4, S.L.

Other party: GALP Energía España, S.A.U.

Questions referred

1. Can a contract such as that at issue in the main proceedings, under which a supplier of petroleum-based products is granted a right known as a 'surface right' for a period of 45 years for the purpose of building a service station and letting it to the owner of the land for a period equivalent to the duration of the right, and which contains an exclusive purchasing obligation for the same period, be regarded as being of negligible importance and as not being caught by the prohibition laid down in Article 81(1) EC (now Article 101(1) TFEU) on the grounds, principally, of the supplier's modest market share of less than 3 %, compared to the total market share of about 70 % held by three suppliers alone,

even though the duration of this contract exceeds the average duration of contracts generally concluded on the relevant market?

2. If the reply were to be in the negative and the agreement were to fall to be examined under Regulation No 1984/83 ⁽¹⁾ and Regulation No 2790/99, ⁽²⁾ may Article 12(2) of Regulation No 2790/99 in conjunction with Article 5(a) of the same regulation be interpreted as meaning that, in view of the reseller's not being the owner of the land and the remaining duration of the contract's being more than five years on 1 January 2002, the contract will become void on 31 December 2006?

⁽¹⁾ Commission Regulation (EEC) No 1984/83 of 22 June 1983 on the application of Article 85(3) of the Treaty to categories of exclusive purchasing agreements (OJ 1983 L 173, p. 5).

⁽²⁾ Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices (OJ 1999 L 336, p. 21).

Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands) lodged on 8 July 2013 — VAEX Varkens- en Veehandel BV v Productschap Vee en Vlees

(Case C-387/13)

(2013/C 274/16)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Appellant: VAEX Varkens- en Veehandel BV

Respondent: Productschap Vee en Vlees

Questions referred

1. Does the European legislative framework applicable here [(¹) (²) (³) (⁴)] preclude, in a case such as the present [period of validity of an export licence]:
 - (a) payment of the refund applied for;
 - (b) release of the security lodged in connection with the licence application?

2. If one or both questions is/are answered in the affirmative, does that same framework then preclude *ex post facto* regularisation, in such a way that the exported quantity can still be entered on the licence and, on that basis, the refund still paid and/or, as the case may be, the security lodged still released?
3. If Question 2 is also answered in the affirmative: is that same framework then invalid in so far as it contains no provision for payment of a refund and/or, as the case may be, release of the security lodged to be granted in a case such as the present, in which use was made of a licence one day too early?

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- (¹) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ 2007 L 299, p. 1).
- (²) Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (Codified version) (OJ 2008 L 114, p. 3).
- (³) Commission Regulation (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector (Recast) (OJ 2008 L 115, p. 10).
- (⁴) Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (Recast) (OJ 2009 L 186, p. 1).

Appeal brought on 11 July 2013 by the Council of the European Union against the judgment of the General Court (Second Chamber) delivered on 30 April 2013 in Case T-304/11 Alumina d.o.o. v Council and Commission

(Case C-393/13 P)

(2013/C 274/17)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: J.-P. Hix, Agent, and G. Berrisch, Rechtsanwalt)

Other parties to the proceedings: Alumina d.o.o., European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal;
- dismiss the action;
- order the applicant at first instance to pay the costs relating to the appeal and to the proceedings before the General Court

Grounds of appeal and main arguments

The Council relies on a sole ground of appeal against the judgment of 30 April 2013 in Case T-304/11, by which the General Court annulled Council Implementing Regulation (EU) No 464/2011 of 11 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of zeolite A powder originating in Bosnia and Herzegovina. (¹)

The Council submits that the General Court misinterpreted the concept of 'sales carried out in the ordinary course of trade' as used in Article 2(1) and (6) of the Basic Regulation. (²) Specifically, the Council argues that sales may take place 'in the ordinary course of trade' even if the seller has increased its sale price by incorporating in that price a premium to cover the risk of non-payment or of late payment.

According to the Council, the contrary interpretation adopted by the General Court is, in addition, incompatible with the principle of legal certainty.

(¹) OJ 2011 L 125, p. 1.

(²) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51).

Action brought on 12 July 2013 — European Commission v Kingdom of Belgium

(Case C-395/13)

(2013/C 274/18)

Language of the case: French

Parties

Applicant: European Commission (represented by: O. Beynet and E. Manhaeve, acting as Agents)

Defendant: Kingdom of Belgium