

3. The Court of Justice of the European Union manifestly lacks jurisdiction to answer the fourth question referred for a preliminary ruling by the Juzgado de lo Contencioso-Administrativo No 4 de Madrid (Administrative Court No 4, Madrid, Spain).

⁽¹⁾ OJ C 96, 23.3.2015.

Judgment of the Court (Second Chamber) of 15 September 2016 (request for a preliminary ruling from the College van Beroep voor het bedrijfsleven — Netherlands) — Koninklijke KPN NV and Others v Autoriteit Consument en Markt (ACM)

(Case C-28/15) ⁽¹⁾

(Reference for a preliminary ruling — Common regulatory framework for electronic communications networks and services — Directive 2002/21/EC — Articles 4 and 19 — National Regulatory Authority — Harmonisation measures — Recommendation 2009/396/EC — Legal scope — Directive 2002/19/EC — Articles 8 and 13 — Operator designated as having significant market power on a market — Obligations imposed by national regulatory authorities — Price control and cost accounting obligations — Fixed and mobile call termination rates — Scope of the review that national courts can exercise over the decisions of national regulatory authorities)

(2016/C 419/15)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicants: Koninklijke KPN NV, KPN BV, T-Mobile Netherlands BV, Tele2 Nederland BV, Ziggo BV, Vodafone Libertel BV, Ziggo Services BV, formerly UPC Nederland BV, Ziggo Zakelijk Services BV, formerly UPC Business BV

Defendant: Autoriteit Consument en Markt (ACM)

Operative part of the judgment

1. Article 4(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009, read in conjunction with Articles 8 and 13 of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), as amended by Directive 2009/140, must be interpreted as meaning that a national court, hearing a dispute concerning the legality of a tariff obligation imposed by the national regulatory authority for the provision of fixed and mobile call termination services, may depart from Commission Recommendation 2009/396/EC of 7 May 2009 on the regulatory treatment of fixed and mobile termination rates in the EU advocating the 'pure Bulric' (Bottom-Up Long-Run Incremental Costs) cost model as the appropriate price regulation measure in the termination market only where it considers that this is required on grounds related to the facts of the individual case, in particular the specific characteristics of the market of the Member State in question.
2. EU law must be interpreted as meaning that a national court hearing a dispute concerning the legality of a tariff obligation imposed by the national regulatory authority for the provision of fixed and mobile call termination services can assess the proportionality of that obligation in the light of the objectives set out in Article 8 of Directive 2002/21, as amended by Directive 2009/140, and Article 13 of Directive 2002/19, as amended by Directive 2009/140, and take into account the fact that the obligation has the effect of promoting the interests of end-users on a retail market which has not been earmarked for regulation.

A national court may not, when carrying out a judicial review of a decision of the national regulatory authority, require that authority to demonstrate that the obligation actually attains the objectives set out in Article 8 of Directive 2002/21, as amended by Directive 2009/140.

⁽¹⁾ OJ C 138, 27.4.2015.

Judgment of the Court (Eighth Chamber) of 22 September 2016 (request for a preliminary ruling from the Gerechtshof Amsterdam — Netherlands) — Kawasaki Motors Europe NV v Inspecteur van de Belastingdienst/Douane

(Case C-91/15) ⁽¹⁾

(Reference for a preliminary ruling — Assessment of validity — Regulation (EC) No 1051/2009 — Common Customs Tariff — Tariff classification — Combined Nomenclature — Heading 8701 — Tractors — Subheadings 8701 90 11 to 8701 90 39 — Agricultural tractors (excluding pedestrian-controlled tractors) and forestry tractors, wheeled, new — Light four-wheeled all terrain vehicles designed to be used as tractors)

(2016/C 419/16)

Language of the case: Dutch

Referring court

Gerechtshof Amsterdam

Parties to the main proceedings

Applicant: Kawasaki Motors Europe NV

Defendant: Inspecteur van de Belastingdienst/Douane

Operative part of the judgment

Paragraph 2 of the annex to Commission Regulation (EC) No 1051/2009 of 3 November 2009 concerning the classification of certain goods in the Combined Nomenclature is invalid in so far as it classifies the vehicle described in that paragraph under subheading 8107 90 90 of that Combined Nomenclature, as amended by Commission Regulation (EC) No 948/2009 of 30 September 2009, and not under one of subheadings 8701 90 11 to 8701 90 39 of that Combined Nomenclature, which correspond to the engine power of that vehicle.

⁽¹⁾ OJ C 146, 4.5.2015.

Judgment of the Court (Grand Chamber) of 20 September 2016 — Konstantinos Mallis (C-105/15 P), Elli Konstantinou Malli (C-105/15 P), Tameio Pronoias Prosopikou Trapezis Kyprou (C-106/15 P), Petros Chatzithoma (C-107/15 P), Elenitsa Chatzithoma (C-107/15 P), Lella Chatziioannou (C-108/15 P), Marinos Nikolaou (C-109/15 P) v European Commission, European Central Bank

(Joined Cases C-105/15 P to C-109/15 P) ⁽¹⁾

(Appeals — Stability support programme for the Republic of Cyprus — Eurogroup statement concerning, in particular, the restructuring of the banking sector in Cyprus — Actions for annulment)

(2016/C 419/17)

Language of the case: Greek

Parties

Appellants: Konstantinos Mallis (C-105/15 P), Elli Konstantinou Malli (C-105/15 P), Tameio Pronoias Prosopikou Trapezis Kyprou (C-106/15 P), Petros Chatzithoma (C-107/15 P), Elenitsa Chatzithoma (C-107/15 P), Lella Chatziioannou (C-108/15 P), Marinos Nikolaou (C-109/15 P) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, dikigoro)