Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that by creating a new economic test to be applied when determining the amounts to be recovered from beneficiaries of State aid consisting of a tax measure fixing a lower rate by reference to a standard rate, the General Court violated Article 108(3) TFEU and Article 14 of Regulation 659/1999 ([2]).

([1]) OJ L 119, p. 30.
([2]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, p. 1.

Request for a preliminary ruling from the Rīgas apgabaltiesas Krimināllietu tiesu kolēģija (Latvia) lodged on 13 April 2015 — Criminal proceedings against Aleksandrs Ranks and Jurijs Vasiļevičs

(Case C-166/15)

(2015/C 205/29)

Language of the case: Latvian

Referring court

Rīgas apgabaltiesas Krimināllietu tiesu kolēģija

Party to the main proceedings

Criminal proceedings against: Aleksandrs Ranks, Jurijs Vasiļevičs

Other parties in the case: Finanšu un ekonomisko noziegumu izmeklēšanas prokuratūra, Microsoft Corporation

Questions referred

1. Under Articles 5(1) and 4(2) of Directive 2009/24 ([1]) of the European Parliament and of the Council, may a person who has acquired a computer program with a 'used' licence on a non-original disk, which works and is not used by any other user, rely upon the exhaustion of the right to distribute a copy of that computer program, the first purchaser of which acquired it from the rightholder with the original disk, which however has been damaged, when the first purchaser has erased his copy and no longer uses it?

2. If the answer to the first question is in the affirmative, then, does a person who may rely upon the exhaustion of the right to distribute a copy of the computer program have the right to resell that computer program on a non-original disk to a third person, in accordance with Articles 4(2) and 5(2) of Directive 2009/24?

([1]) Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version) (Text with EEA relevance) (OJ 2009 L 111, p. 16).

Request for a preliminary ruling from the Nacka tingsrätt, Mark- och miljödomstolen (Sweden) lodged on 21 April 2015 — Borealis Ab and Others v Naturvårdsverket

(Case C-180/15)

(2015/C 205/30)

Language of the case: Swedish

Referring court

Nacka tingsrätt, Mark- och miljödomstolen

Parties to the main proceedings

Applicants: Borealis AB, Kubikenborg Aluminium AB, Yara AB, SSAB EMEA AB, Lulekraft AB, Värmevärden i Nynäshamn AB, Cementa AB, Höganäs Sweden AB

Defendant: Naturvårdsverket

Questions referred

1. In the calculation of the cross-sectoral correction factor for the industrial sector, is it compatible with Article 10a(1) and (4) of the trading directive ([1]) to attribute all emissions from incineration of residual gas for electricity production to the auction pot and not to the Industritaket (ceiling for free allocation of allowances; 'industry ceiling'), despite the fact that emissions from residual gas are eligible for free allocation of allowances under Article 10a(1) of the trading directive?

2. In the calculation of the cross-sectoral correction factor for the industrial sector, is it compatible with Article 10a(1) and (4) of the trading directive to attribute all emissions produced in heat production in cogeneration installations for onward delivery to … installations [covered by the emissions trading system ('ETS installations')] to the auction pot and not to the industry ceiling, despite the fact that the emissions from heat production are eligible for free allocation of allowances under Article 10a(4) of the trading directive?

3. If the answers to questions 1 and 2 are negative, is the calculation, in that case, of the industries' share (34,78 per cent) of the total emissions in the reference period correct?

4. Is Commission Decision 2013/448/EU ([2]) invalid and incompatible with the third subparagraph of Article 10a(5) of the trading directive, since the Commission's calculation of the industry ceiling means that a cross-sectoral correction factor must inevitably be applied instead of being applied 'if necessary'?

5. Has the product benchmark for hot metal been established in accordance with Article 10a(2) of the trading directive on the basis of the fact that, in defining the principles for setting ex-ante benchmarks, the starting point is to be the average performance of the 10 per cent most efficient installations in the relevant sector?

6. As regards the free allocation of allowances for the export of heating to private households, is it compatible with Article 10a(4) of the trading directive not to grant allocation of free allowances in respect of heating which is exported to private households?

7. In connection with applications for the free allocation of allowances, is it compatible with Annex IV to Commission Decision 2011/278/EU ([3]), as the Naturvårdsverket (Swedish Environmental Protection Agency) has done, not to state all greenhouse gas emissions arising from the production of heating which is exported to private households?

8. In the allocation of free allowances for the export of heating to private households, is it compatible with Article 10a(1) and (4) of the trading directive and Article 10(3) of Commission Decision 2011/278/EU not to give allocation of extra free allowances in respect of the fossil-fuel emissions which exceed the allocation given for heating exported to private households?

9. In connection with applications for allocation of free allowances, is it compatible with Annex IV to Commission Decision 2011/278/EU, as the Naturvårdsverket has done, to adjust the figures in an application so that the greenhouse gas emissions attributable to the incineration of residual gas are equated to those attributable to the incineration of natural gas?

10. Does Article 10(8) of Commission Decision 2011/278/EU mean that an operator cannot obtain an allocation of free allowances in respect of heat consumption in a heat benchmark sub-installation produced in a different fuel benchmark sub-installation?

11. If the answer to question 10 is affirmative, does Article 10(8) of Commission Decision 2011/278/EU run counter to Article 10a(1) of the trading directive?

12. In the allocation of free allowances in respect of heat consumption, is it compatible with the trading directive and Guidance Documents No 2 and 6 to have regard in the assessment to the heat source which produces the heat consumed?

13. Is Commission Decision 2013/448/EU invalid and incompatible with Article 290 TFEU and Article 10a(1) and (5) of the trading directive on the basis that it alters the calculation method set out in Article 10a(5), second subparagraph, (a) and (b) of the trading directive by excluding from the basis of calculation emissions which are caused by the incineration of residual gas and the production of combined heat and power, despite the fact that the free allocation of allowances is permitted in that regard pursuant to Article 10a(1) and (4) of the trading directive and Commission Decision 2011/278/EU?

14. Is measurable heat in the form of steam from an ETS installation which is delivered to a steam network with many consumers of steam, of which at least one is not an ETS installation, to be regarded as constituting a heat benchmark sub-installation under Article 3(c) of Commission Decision 2011/278/EU?

15. Is it relevant to the answer to question 14:

    (a) whether the steam network is owned by the largest consumer of steam in the network and that consumer is an ETS installation,

    (b) what share of the total heat delivery to the steam network is used by the largest consumer,

    (c) how many suppliers and consumers of steam there are in the steam network,

    (d) whether there is uncertainty as to who has produced the measurable heat which the respective consumers of steam acquire, and

    (e) whether the allocation of steam usage within the network can be altered in such a way that a number of consumers of steam which are not ETS installations join it or the existing non-ETS installations' usage increases?

16. If the answer to question 14 depends on the facts of the individual case, to which facts is particular weight to be given?'

([1]) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).

([2]) Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (OJ 2013 L 240, p. 27).

([3]) Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2011) 2772) (OJ 2011 L 130, p. 1).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 22 April 2015 — Aleksei Petruhhin

(Case C-182/15)

(2015/C 205/31)

Language of the case: Latvian

Referring court

Augstākā tiesa