Question referred

In the light of Article 3(1) and the objectives of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages, ([1]) in the determination of the basis of assessment for flavoured beers using the Plato scale, must the extract resulting from the flavourings added following the completion of fermentation be added to the real extract of the finished product or is the extract resulting from the added substances to be disregarded?

([1]) OJ 1992 L 316, p. 21.

Request for a preliminary ruling from the Sąd Rejonowy Poznań-Grunwald i Jeżyce w Poznaniu (Poland) lodged on 7 February 2017 — Grzegorz Chudaś and Irena Chudaś v DA Deutsche Allgemeine Versicherung Aktiengesellschaft AG

(Case C-66/17)

(2017/C 161/10)

Language of the case: Polish

Referring court

Sąd Rejonowy Poznań-Grunwald i Jeżyce w Poznaniu

Parties to the main proceedings

Applicants: Grzegorz Chudaś and Irena Chudaś

Defendant: DA Deutsche Allgemeine Versicherung Aktiengesellschaft AG

Question referred

Should Article 4(1) of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims ([1]) … ('Regulation No 805/2004'), read in conjunction with Article 7 of that regulation, be interpreted as meaning that a European Enforcement Order certificate may be issued in respect of a decision concerning reimbursement of the costs of proceedings contained in a judgment in which a court has established the existence of a right?

([1]) OJ 2004 L 143, p. 15.

Request for a preliminary ruling from the Curtea de Apel Suceava (Romania) lodged on 14 February 2017 — Zabrus Siret SRL v Direcția Generală Regională a Finanțelor Publice Iași — Administrația Județeană a Finanțelor Publice Suceava

(Case C-81/17)

(2017/C 161/11)

Language of the case: Romanian

Referring court

Curtea de Apel Suceava

Parties to the main proceedings

Appellant: Zabrus Siret SRL

Respondent: Direcția Generală Regională a Finanțelor Publice Iași — Administrația Județeană a Finanțelor Publice Suceava

Questions referred

1. Does Directive 2006/112/EC, ([1]) together with the principles of fiscal neutrality and proportionality, preclude, in circumstances such as those in the main proceedings, an administrative practice and/or an interpretation of the provisions of national legislation precluding the assessment and recognition of the right to reimbursement of VAT resulting from adjustments in respect of transactions carried out during a period, preceding the most recent inspection period, which has already been the subject of a tax inspection and in which the tax authorities did not find any anomalies that were such as to alter the taxable amount for VAT, notwithstanding the fact that those provisions may be interpreted as meaning that the tax authorities may review a period which has previously been the subject of a tax inspection in the light of additional data and information obtained subsequently as a result of cooperation between State authorities and institutions?

2. Must Directive 2006/112/EC and the principles of fiscal neutrality and proportionality be interpreted as precluding, in circumstances such as those in the main proceedings, national rules of a legislative nature which deny the possibility of correcting substantive errors in VAT returns for tax periods which have already been the subject of a tax inspection, the only exception being where the correction is made on the basis of a notice communicated by the tax inspectorate at the time of the previous inspection?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Appeal brought on 22 February 2017 by European Union Intellectual Property Office against the judgment of the General Court (Fifth Chamber) delivered on 15 December 2016 in Case T-112/13: Mondelez UK Holdings & Services Ltd v European Union Intellectual Property Office

(Case C-95/17 P)

(2017/C 161/12)

Language of the case: English

Parties

Appellant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral, Agent)

Other parties to the proceedings: Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd; Société des produits Nestlé SA

Form of order sought

The appellant claims that the Court should:

— annul the Contested Judgment,

— order Mondelez UK Holdings & Services Ltd to bear the costs incurred by the Office.

Pleas in law and main arguments

Violation of Article 36, first sentence, of the Statute of the Court of Justice

The General Court based its Judgment on contradictory reasoning while accepting, on the one hand, that 'proof may be adduced globally for all the Member States concerned' and requiring, on the other hand, that the acquisition of distinctive character be established in each and every Member State, individually (see paragraph 139 of the Contested Judgment).

Violation of Articles 7(3) and 52(2) of Regulation No 207/2009 ([1])

The General Court misapplied the Court of Justice's guidance as set out in its Judgment of 24 May 2012, Case C-98/11P, Chocoladefabriken Lindt & Sprüngli AG/OHIM, (Shape of a chocolate rabbit with a red ribbon), ECLI:EU:C:2012:307, at paragraphs 62 and 63 (hereafter the 'Chocoladefabriken Lindt & Sprüngli Judgment') in requiring proof of the acquisition of distinctive character be established in each and every Member

State, individually.

The General Court should have examined whether the evidence submitted by the EU trade mark proprietor establishes acquisition of distinctive character in the European Union as a whole, irrespective of national borders.