

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: Kamino International Logistics BV

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Annex I to Commission Regulation (EC) No 1789/2003 of 11 September 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 281, p. 1) — Colour monitor capable of displaying signals from an automatic data-processing machine and from another source — Classification under heading 8471 of the CN — Applicability and validity of Commission Regulation (EC) No 754/2004 of 21 April 2004 on the classification of certain goods in the CN (OJ 2004 L 118, p. 32)

Operative part of the judgment

1. Monitors such as those at issue in the main proceedings are not excluded from classification in subheading 8471 60 90, as units of the kind used 'principally' in an automatic data-processing system within the meaning of Note 5(B)(a) to Chapter 84 of the combined nomenclature constituting Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1789/2003 of 11 September 2003, solely because they are capable of displaying signals coming both from an automatic data-processing machine and from other sources.
2. In order to determine whether monitors such as those at issue in the main proceedings are units of the kind used principally in an automatic data-processing system, the national authorities, including the courts, must refer to the indications given in the Explanatory Notes relating to heading 8471 of the Harmonised System introduced by the International Convention on the Harmonised Commodity Description and Coding System, concluded in Brussels on 14 June 1983, and the Protocol of Amendment thereto of 24 June 1986, in particular to points 1 to 5 of Part One, Chapter I(D), relating to display units of automatic data-processing machines.
3. Commission Regulation (EC) No 754/2004 of 21 April 2004 concerning the classification of certain goods in the Combined Nomenclature is not applicable for the purposes of tariff classification of the monitors at issue in the main proceedings.

⁽¹⁾ OJ C 269, 10.11.2007.

Judgment of the Court (Grand Chamber) of 17 February 2009 (reference for a preliminary ruling from the Raad van State (Netherlands)) — M. Elgafaji, N. Elgafaji v Staatssecretaris van Justitie

(Case C-465/07) ⁽¹⁾

(Directive 2004/83/EC — Minimum standards for determining who qualifies for refugee status or for subsidiary protection status — Person eligible for subsidiary protection — Article 2(e) — Real risk of suffering serious harm — Article 15(c) — Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of armed conflict — Proof)

(2009/C 90/06)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: M. Elgafaji, N. Elgafaji

Defendant: Staatssecretaris van Justitie

Re:

Reference for a preliminary ruling — Nederlandse Raad van State — Interpretation of Articles 2(e) and 15(c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted — Minimum standards in relation to the conditions governing the granting of refugee status — Level of protection equivalent to that of Article 3 of the European Convention on Human Rights or, in the event of non-equivalence, the criteria to be applied for the purpose of determining whether there are serious and individual threats by reason of indiscriminate violence

Operative part of the judgment

Article 15(c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, in conjunction with Article 2(e) thereof, must be interpreted as meaning that:

— the existence of a serious and individual threat to the life or person of an applicant for subsidiary protection is not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances;

— the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place — assessed by the competent national authorities before which an application for subsidiary protection is made, or by the courts of a Member State to which a decision refusing such an application is referred — reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to that threat.

(¹) OJ C 8, 12.1.2008.

Judgment of the Court (Fourth Chamber) of 17 February 2009 (reference for a preliminary ruling from the Conseil d'État (France)) — Commune de Sausheim v Pierre Azelvandre

(Case C-552/07) (¹)

(Directive 2001/18/EC — Deliberate release of genetically modified organisms — Location of release — Confidentiality)

(2009/C 90/07)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Commune de Sausheim

Defendant: Pierre Azelvandre

Re:

Reference for a preliminary ruling — Conseil d'État (France) — Interpretation of Article 19 of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (OJ 1990 L 117, p. 15) and of Article 4 of Directive 2003/4/EC of 28 January 2003 of the European Parliament and of the Council on public access to environmental information (OJ 2003 L 41, p. 26) — Meaning of 'location of release' of genetically modified organisms (GMOs) — Is release confined to a particular registered parcel of land or to a larger geographical area (Commune, Canton, Department)?

— If the former, may disclosure of the registered reference number of the parcel in question be refused on grounds of the protection of public order or of the safety of individuals or property?

Operative part of the judgment

1. The 'location of release', within the meaning of the first indent of Article 25(4) of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, is determined by all the information relating to the location of the release submitted by the notifier to the competent authorities of the Member State on whose territory that release is to take place in the context of the procedures referred to in Articles 6, 7, 8, 13, 17, 20 or 23 of that directive.
2. An exception relating to the protection of public order or other interests protected by law cannot be relied on against the disclosure of the information set out in Article 25(4) of Directive 2001/18.

(¹) OJ C 37, 9.2.2008.

Judgment of the Court (Third Chamber) of 19 February 2009 (reference for a preliminary ruling from the Corte suprema di cassazione (Italy)) — Athesia Druck Srl v Ministero delle Finanze, Agenzia delle Entrate

(Case C-1/08) (¹)

(Sixth VAT Directive — Article 9(2)(e) — Article 9(3)(b) — Thirteenth VAT Directive — Article 2 — Place where a supply of services is effected — Advertising services — Reimbursement of VAT — Tax representative)

(2009/C 90/08)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: Athesia Druck Srl

Defendants: Ministero delle Finanze, Agenzia delle Entrate