

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 204(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code (OJ 1992 L 302, p. 1) — Delayed entry in stock records of information concerning the removal of goods from a customs warehouse — Whether arising of the customs debt admissible as the penalty for that failure

Operative part of the judgment

Article 204(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005, must be interpreted as meaning that, in the case of non-Community goods, non-fulfilment of the obligation to enter the removal of the goods from the customs warehouse in the appropriate stock records, at the latest when the goods leave the customs warehouse, gives rise to a customs debt in respect of those goods, even if they have been re-exported.

⁽¹⁾ OJ C 238, 13.8.2011.

Judgment of the Court (Fourth Chamber) of 6 September 2012 (reference for a preliminary ruling from the Consiglio di Stato — Italy) — Pioneer Hi Bred Italia Srl v Ministero delle Politiche agricole alimentari e forestali

(Case C-36/11) ⁽¹⁾

(Agriculture — Genetically modified organisms — Council Directive 2002/53/EC — Common catalogue of varieties of agricultural plant species — Genetically modified organisms accepted for inclusion in the common catalogue — Regulation (EC) No 1829/2003 — Article 20 — Existing products — Directive 2001/18/EC — Article 26a — Measures to avoid the unintended presence of genetically modified organisms — National measures prohibiting the cultivation of genetically modified organisms accepted for inclusion in the common catalogue and authorised as existing products pending measures based on Article 26a of Directive 2001/18/EC)

(2012/C 355/06)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Pioneer Hi Bred Italia Srl

Defendant: Ministero delle Politiche agricole alimentari e forestali

Re:

Reference for a preliminary ruling — Consiglio di Stato — Second Chamber — Interpretation of Articles 16, 19, 22 and

26a of Directive 2001/18/EC of the 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 (OJ 2001 L 106, p. 1) — Interpretation of Article 19 of Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ 2002 L 193, p. 1) — Application for authorisation to cultivate GMOs listed in the European common catalogue — Refused by the competent authority because of the lack of internal general measures governing such matters.

Operative part of the judgment

1. The cultivation of genetically modified organisms such as the MON 810 maize varieties cannot be made subject to a national authorisation procedure when the use and marketing of those varieties are authorised pursuant to Article 20 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed and those varieties have been accepted for inclusion in the common catalogue provided for in Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species, as amended by Regulation No 1829/2003;
2. Article 26a 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, as amended by Directive 2008/27/EC of the European Parliament and of the Council of 11 March 2008, does not entitle a Member State to prohibit in a general manner the cultivation on its territory of such genetically modified organisms pending the adoption of coexistence measures to avoid the unintended presence of genetically modified organisms in other crops.

⁽¹⁾ OJ C 89, 19.3.2011.

Judgment of the Court (Second Chamber) of 6 September 2012 — European Commission v Kingdom of Belgium

(Case C-150/11) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 1999/37/EC — Registration documents for vehicles — Vehicles previously registered in another Member State — Change of ownership — Requirement of a roadworthiness test — Requirement of production of a certificate of conformity — Roadworthiness test carried out in another Member State — Non-recognition — Lack of justification)

(2012/C 355/07)

Language of the case: French

Parties

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

Defendant: Kingdom of Belgium (represented by: T. Materne and J.-C. Halleux, acting as Agents, and by F. Libert and S. Rodrigues, *avocats*)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 34 TFEU and of Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ 1999 L 138, p. 57) — National legislation requiring the production of a certificate of conformity of a vehicle for the purpose of a roadworthiness test prior to the registration of a vehicle which was previously registered in another Member State — Non-recognition of the results of the roadworthiness tests carried out in other Member States — Restriction on the free movement of goods — Absence of justifications

Operative part of the judgment

The Court:

1. Declares that, by requiring systematically, in addition to production of a certificate of registration, production of a vehicle's certificate of conformity, for the purpose of a roadworthiness test prior to the registration of a vehicle previously registered in another Member State, and by making such vehicles, when there is a change of ownership, subject to a roadworthiness test prior to their registration, without taking into account the results of the roadworthiness test carried out in another Member State, the Kingdom of Belgium has failed to fulfil its obligations under Article 4 of Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles, as amended by Council Directive 2006/103/EC of 20 November 2006, and under Article 34 TFEU;
2. Orders the Kingdom of Belgium to pay the costs.

⁽¹⁾ OJ C 160, 28.5.2011.

Judgment of the Court (Fourth Chamber) of 6 September 2012 (reference for a preliminary ruling from the Oberster Gerichtshof — Austria) — Daniela Mühlleitner v Ahmad Yusufi, Wadat Yusufi

(Case C-190/11) ⁽¹⁾

(Jurisdiction in civil and commercial matters — Jurisdiction over consumer contracts — Regulation (EC) No 44/2001 — Article 15(1)(c) — Possible limitation of that jurisdiction to distance contracts)

(2012/C 355/08)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Daniela Mühlleitner

Defendants: Ahmad Yusufi, Wadat Yusufi

Re:

Reference for a preliminary ruling — Oberster Gerichtshof — Interpretation of Article 15(1)(c) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Jurisdiction over consumer contracts — Possible limitation of that jurisdiction to distance contracts

Operative part of the judgment

Article 15(1)(c) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as not requiring the contract between the consumer and the trader to be concluded at a distance.

⁽¹⁾ OJ C 204, 9.7.2011.

Judgment of the Court (Second Chamber) of 6 September 2012 (reference for a preliminary ruling from the Baranya Megyei Bíróság — Hungary) — Mecsek-Gabona Kft v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága

(Case C-273/11) ⁽¹⁾

(VAT — Directive 2006/112/EC — Article 138(1) — Conditions of exemption for intra-Community transactions characterised by the obligation on the purchaser to ensure, as from the time of their loading, the transport of the goods of which it disposes as owner — Obligation on the vendor to prove that the goods have physically left the territory of the Member State of supply — Removal from the register, with retroactive effect, of the customer's VAT identification number)

(2012/C 355/09)

Language of the case: Hungarian

Referring court

Baranya Megyei Bíróság

Parties to the main proceedings

Applicant: Mecsek-Gabona Kft

Defendant: Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága

Re:

Reference for a preliminary ruling — Baranya Megyei Bíróság — Interpretation of Article 138(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Conditions of exemption for intra-Community transactions characterised by the obligation on the purchaser to ensure, as from the time of their loading, the transport of the goods of which it may dispose as owner — Obligation on the taxable person to prove that the goods have been transported to another Member State and that, as a result of that transport, they have physically left the territory of the Member State of supply