

Re:

Article 259 TFEU — Failure of a Member State to fulfil obligations — Breach of Article 18(1) EC, Article 3(2) TEU, Article 21(1) TFEU and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ 2004 L 158, p. 77) — Abusive application of European Union law — Prohibition on entering the territory of the Slovak Republic imposed on the President of Hungary when intending to take up the invitation made by a social organisation — Prohibition on entry based, in part, on Directive 2004/38/EC — Application of the provisions of European Union law on the free movement of persons to Heads of State and to other persons representing the Member States

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Hungary to pay the costs;
3. Orders the European Commission to bear its own costs.

(¹) OJ C 301, 6.11.2010.

**Judgment of the Court (Fifth Chamber) of 18 October 2012
(reference for a preliminary ruling from the Consiglio di Stato — Italy) — Elenca Srl v Ministero dell'Interno**

(Case C-385/10) (¹)

(Free movement of goods — Quantitative restrictions and measures having equivalent effect — Internal liners in flues and chimney pipes — Lack of CE conformity marking — Marketing precluded)

(2012/C 379/04)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Elenca Srl

Defendant: Ministero dell'Interno

Re:

Reference for a preliminary ruling — Consiglio di Stato — Interpretation of Articles 2, 4(2), 5 and 6 of Council Directive

89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (OJ 1989 L 40, p. 12) — Products not covered by harmonised standards as provided for in the directive — National rules that preclude the marketing of plastic internal flue or chimney pipe linings not bearing EC marking

Operative part of the judgment

1. Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, must be interpreted as precluding national provisions which automatically make the marketing of construction products, such as those at issue in the main proceedings, originating from another Member State, subject to the affixing of CE marking.
2. Articles 34 TFEU to 37 TFEU must be interpreted as precluding national provisions which automatically make the marketing of construction products, such as those at issue in the main proceedings, originating from another Member State, subject to the affixing of CE marking.

(¹) OJ C 274, 9.10.2010.

**Judgment of the Court (First Chamber) of 18 October 2012
(reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — X NV v Staatssecretaris van Financiën**

(Case C-498/10) (¹)

(Freedom to provide services — Restrictions — Fiscal legislation — Obligation on the recipient of a service, established in the national territory, to withhold at source the wages tax on the remuneration due to a service provider established in another Member State — No such obligation in respect of a service provider established in the same Member State)

(2012/C 379/05)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: X NV