Judgment of the Court (Tenth Chamber) of 22 March 2017 (request for a preliminary ruling from the Szegedi Közigazgatási és Munkaügyi Bíróság — Hungary) — Euro-Team Kft. (Case C-497/15), Spirál-Gép Kft. (Case C-498/15) v Budapest Rendőrfőkapitánya

(Joined Cases C-497/15 and C-498/15) ([1])

(Reference for a preliminary ruling — Approximation of laws — Road transport — Tax provisions — Directive 1999/62/EC — Charging of heavy goods vehicles for the use of certain infrastructures — Toll — Member States' obligation to establish effective, proportionate and dissuasive penalties — Flat-rate fine — Proportionality)

(2017/C 168/13)

Language of the case: Hungarian

Referring court

Szegedi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicants: Euro-Team Kft. (Case C-497/15), Spirál-Gép Kft. (Case C-498/15)

Defendant: Budapest Rendőrfőkapitánya

Operative part of the judgment

1. *Article 9a of Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, as amended by Directive 2011/76/EU of the European Parliament and of the Council of 27 September 2011, must be interpreted as meaning that the requirement set out therein of proportionality of the penalties which it covers precludes a system of penalties, such as that at issue in the main proceedings, which provides for the imposition of a flat-rate fine for all offences, whatever their nature and gravity, under the rules on the obligation to make prior payment of the toll for use of a road infrastructure;*

2. *Article 9a of Directive 1999/62, as amended by Directive 2011/76, must be interpreted as meaning that the requirement of proportionality referred to therein does not preclude a system of penalties, such as that at issue in the main proceedings, which institutes strict liability. However, it must be interpreted as precluding the level of the penalty provided for by that system.*

([1]) OJ C 27, 25.1.2016.

Judgment of the Court (Grand Chamber) of 4 April 2017 (request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany) — Sahar Fahimian v Bundesrepublik Deutschland

(Case C-544/15) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2004/114/EC — Article 6(1)(d) — Conditions of admission of third country nationals — Refusal of admission — Concept of 'threat to public security' — Margin of discretion)

(2017/C 168/14)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Sahar Fahimian

Defendant: Bundesrepublik Deutschland

intervener: Stadt Darmstadt

Operative part of the judgment

Article 6(1)(d) of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service must be interpreted as meaning that the competent national authorities, where a third country national has applied to them for a visa for study purposes, have a wide discretion in ascertaining, in the light of all the relevant elements of the situation of that national, whether he represents a threat, if only potential, to public security. That provision must also be interpreted as not precluding the competent national authorities from refusing to admit to the territory of the Member State concerned, for study purposes, a third country national who holds a degree from a university which is the subject of EU restrictive measures because of its large scale involvement with the Iranian Government in military or related fields, and who plans to carry out research in that Member State in a field that is sensitive for public security, if the elements available to those authorities give reason to fear that the knowledge acquired by that person during his research may subsequently be used for purposes contrary to public security. It is for the national court hearing an action brought against the decision of the competent national authorities to refuse to grant the visa sought to ascertain whether that decision is based on sufficient grounds and a sufficiently solid factual basis.

([1]) OJ C 429, 21.12.2015.

Judgment of the Court (Sixth Chamber) of 6 April 2017 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — Eko-Tabak s. r. o. v Generální ředitelství cel

(Case C-638/15) ([1])

(Reference for a preliminary ruling — Directive 2011/64/EU — Article 2(1)(c) — Article 5(1)(a) — Definitions of 'smoking tobacco', 'tobacco which has been cut or otherwise split' and 'industrial processing')

(2017/C 168/15)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Eko-Tabak s. r. o.

Defendant: Generální ředitelství cel

Operative part of the judgment

Article 2(1)(c) and Article 5(1) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco must be interpreted as meaning that dried, flat, irregular, partly stripped leaf tobacco and/or parts thereof which have undergone primary drying and controlled dampening, which contain glycerine and which are capable of being smoked after simple processing by means of crushing or hand-cutting, fall within the definition of 'smoking tobacco' for the purpose of those provisions.

([1]) OJ C 98, 14.3.2016.