Reference for a preliminary ruling, by the Bundesfinanzhof, by order of that court of 17 July 2001, in the case of Hamann International GmbH Spedition and Logistik against Hauptzollamt Hamburg-St. Annen

(Case C-337/01)

(2001/C 348/18)

Reference has been made to the Court of Justice of the European Communities by order of the Bundesfinanzhof (Federal Finance Court) of 17 July 2001, received at the Court Registry on 10 September 2001, for a preliminary ruling in the case of Hamann International GmbH Spedition and Logistik against Hauptzollamt Hamburg-St. Annen, on the following question:

Is there a removal from customs supervision of re-exported non-Community goods resulting in the incurring of a customs debt under Article 203(1) of Council Regulation (EEC) No 2913/92 [1] solely by virtue of the fact that the goods intended for re-export from the customs territory of the Community were not placed under the external transit procedure immediately on removal from the customs warehouse?

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[1] OJ 1992 L 302, p. 1.

References for a preliminary ruling by the Bundesgerichtshof by orders of that court of 3 July 2001 in the cases of 1. AOK Bundesverband, 2. Bundesverband der Betriebskrankenkassen, 3. Bundesverband der Innungskrankenkassen, 4. Bundesverband der landwirtschaftlichen Krankenkassen, 5. Verband der Angestelltenkrankenkassen e.V., 6. Verband der Arbeiter-Ersatzkassen, 7. Bundesknappschaft and 8. See-Krankenkasse against Gödecke Aktiengesellschaft and Intersan, Institut für pharmazeutische und klinische Forschung GmbH, respectively

(Cases C-354/01 and C-355/01)

(2001/C 348/19)

Reference has been made to the Court of Justice of the European Communities by order of the Bundesgerichshof of 3 July 2001, received at the Court Registry on 20 September 2001, for a preliminary ruling in the cases of 1. AOK Bundesverband, 2. Bundesverband der Betriebskrankenkassen, 3. Bundesverband der Innungskrankenkassen, 4. Bundesverband der landwirtschaftlichen Krankenkassen, 5. Verband der Angestelltenkrankenkassen e.V., 6. Verband der Arbeiter-Ersatzkassen, 7. Bundesknappschaft and 8. See-Krankenkasse against Gödecke Aktiengesellschaft and Intersan, Institut für pharmazeutische und klinische Forschung GmbH on the following questions:

1. Are Articles 81 and 82 EC to be interpreted as precluding national rules under which national leading associations of statutory sickness insurance determine binding maximum amounts for all statutory sickness funds and compensatory sickness funds up to which the funds bear the costs of medicines, where the legislature defines the criteria by which the maximum amounts are to be calculated, providing in particular that the fixed amounts must ensure comprehensive and quality-assured treatment of insured persons as well as an adequate range of therapeutic alternatives, and the determination is subject to comprehensive review by the courts, which may be initiated by both insured persons and affected medicinal product manufacturers?

2. If question 1 is answered in the affirmative:

   Does Article 86(2) EC exempt such a determination from Articles 81 and 82 EC where the purpose of the determination is to safeguard, in the manner provided for in paragraph 35 SGB V, a sickness insurance scheme whose existence was endangered by a significant increase in costs?

3. If question 1 is answered in the affirmative and question 2 in the negative:

   Are leading associations such as the defendants liable to claims under Community law for damages and an injunction even where in determining maximum amounts they follow a statutory direction, notwithstanding that national law does not impose any penalty for refusal to assist in the making of such a determination?

Reference for a preliminary ruling by the Bundessozialgericht by order of that court of 2 August 2001 in the case of Nadi Sahin against Bundesanstalt für Arbeit

(Case C-369/01)

(2001/C 348/20)

Reference has been made to the Court of Justice of the European Communities by order of the Bundessozialgericht

(Federal Social Court) of 2 August 2001, received at the Court Registry on 25 September 2001, for a preliminary ruling in the case of Nadi Sahin against Bundesanstalt für Arbeit (Federal Labour Office) on the following question:

1. Is Article 41(1) of the Additional Protocol of 23 November 1970 to the Agreement establishing an Association between the European Economic Community and Turkey to be interpreted as meaning:

   (a) that a Turkish worker is entitled to plead a restriction on the freedom to provide services which is contrary to the Additional Protocol and, if so,

   (b) that there is also a restriction on the freedom to provide services where a Member State of the Community abolishes an existing work permit exemption for Turkish drivers engaged in international haulage who are employed by a (Turkish) employer with its seat in Turkey?

2. Does such a restriction concern exclusively the freedom to provide services or does it also or solely concern conditions of access to employment within the meaning of Article 13 of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association between the European Economic Community and Turkey?

3. Is Article 13 of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association between the European Economic Community and Turkey also to be applied to Turkish employees of an employer with its seat in Turkey who, as long-distance lorry drivers engaged in international haulage, regularly pass through a Member State of the Community without belonging to the (legitimate) labour force of that Member State?

Action brought on 26 September 2001 by the Commission of the European Communities against the Hellenic Republic

(Case C-371/01)

(2001/C 348/21)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 26 September 2001 by the Commission of the European Communities, represented by Götz zur Hausen, Legal Adviser, and Panos Panagiotopoulos, a national civil servant on secondment to its Legal Service.

The Commission claims that the Court should:

— declare that, by failing to adopt and to notify to the Commission, within the time-limit laid down, the laws, regulations and administrative provisions necessary to comply fully with Council Directive 98/81/EC[1] of 26 October 1998 amending Directive 90/219/EEC on the contained use of genetically modified micro-organisms, the Hellenic Republic has failed to fulfil its obligations under the EC Treaty;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

In accordance with the third paragraph of Article 249 of the Treaty establishing the European Community, directives are binding, as to the result to be achieved, upon each Member State to which they are addressed.

Under the first paragraph of Article 10 of the Treaty, Member States are to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Treaty or resulting from action taken by the institutions of the Community.

It is not disputed by the Hellenic Republic that it must adopt measures to comply with the abovementioned directive.

The Commission records that until now the Hellenic Republic has not adopted the appropriate measures for the full incorporation of the Directive at issue into Greek law.

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[1] OJ L 330, 5.12.1998, p. 13.

Action brought on 27 September 2001 by the Commission of the European Communities against Ireland

(Case C-375/01)

(2001/C 348/22)

An action against Ireland was brought before the Court of Justice of the European Communities on 27 September 2001 by the Commission of the European Communities, represented by Richard Wainwright, acting as agent, with an address for service in Luxembourg.