

Operative part of the judgment

1. The definition of bioethanol in Article 2(2)(a) of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport must be interpreted as meaning that it includes a product such as that at issue in the main proceedings, which is obtained *inter alia* from biomass and which contains more than 98.5 % ethyl alcohol, once it is offered for sale as biofuel for transport.
2. European Union law must be interpreted as meaning that a product such as that at issue in the main proceedings, which contains more than 98.5 % ethyl alcohol and has not been denatured in a special denaturing procedure must be subject to the excise duty provided for in Article 19(1) of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages, even where it was obtained from biomass using a technology which differs from the technology for the production of agricultural ethyl alcohol, contains substances making it unsuitable for human consumption, satisfies the requirements laid down in European standard prEN 15376 for bioethanol used as fuel and potentially meets the definition of bioethanol in Article 2(2)(a) of Directive 2003/30.

(¹) OJ C 346, 18.12.2010.

Judgment of the Court (Second Chamber) of 21 December 2011 (reference for a preliminary ruling from the Tribunale di Firenze — Italy) — Criminal proceedings against X

(Case C-507/10) (¹)

(Police and judicial cooperation in criminal matters — Framework Decision 2001/220/JHA — Standing of victims in criminal proceedings — Protection of vulnerable persons — Hearing of minors as witnesses — Special measure for early taking of evidence — Refusal by the Public Prosecutor to request the judge in charge of preliminary investigations to hear a witness)

(2012/C 49/20)

Language of the case: Italian

Referring court

Tribunale di Firenze

Party in the main proceedings

X

Intervener: Y

Re:

Reference for a preliminary ruling — Tribunale di Firenze — Interpretation of Articles 2, 3 and 8 of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (OJ 2001 L 82, p 1) —

Hearing of minors as witnesses — Hearing of a minor who has been the victim of sexual abuse — Protective measures which are not made mandatory by national legislation

Operative part of the judgment

Articles 2, 3 and 8(4) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings must be interpreted as not precluding provisions of national law, such as Articles 392(1a), 398(5a) and 394 of the Italian Code of Criminal Procedure, which, first, do not impose on the Public Prosecutor any obligation to apply to the competent court so that a victim who is particularly vulnerable may be heard and give evidence under the arrangements of the *incidente probatorio* during the investigation phase of criminal proceedings and, second, do not give to that victim the right to bring an appeal before a court against that decision of the Public Prosecutor rejecting his or her request to be heard and to give evidence under those arrangements.

(¹) OJ C 13, 15.1.2011.

Judgment of the Court (Third Chamber) of 21 December 2011 (reference for a preliminary ruling from the Oberlandesgericht Düsseldorf — Germany) — Criminal proceedings against Mohsen Afrasiabi, Behzad Sahabi, Heinz Ulrich Kessel

(Case C-72/11) (¹)

(Common foreign and security policy — Restrictive measures against the Islamic Republic of Iran to prevent nuclear proliferation — Regulation (EC) No 423/2007 — Article 7(3) and (4) — Supply and installation of a sintering furnace in Iran — Concept of ‘indirectly making available’ an ‘economic resource’ to persons, entities and bodies listed in Annexes IV and V to that regulation — Concept of ‘circumvention’ of the prohibition on making that resource available)

(2012/C 49/21)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties in the main proceedings

Mohsen Afrasiabi, Behzad Sahabi, Heinz Ulrich Kessel

Re:

Reference for a preliminary ruling — Oberlandesgericht Düsseldorf — Interpretation of Article 7(3) and (4) of Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1) — Delivery of equipment referred to in Annex II of Regulation (EC) No 423/2007 in an unusable condition to an Iranian legal person not referred to in Annexes IV and V of that regulation — Equipment allegedly intended for later production for an entity referred to in those two annexes — Scope of the

prohibition on making available economic resources to the persons listed in Annexes IV and V of the aforesaid regulation — Concept of ‘making available indirectly’ — Simultaneous application of the provisions prohibiting the making available of economic resources, on the one hand, and the contravention of the latter prohibition, on the other hand

Operative part of the judgment

1. Article 7(3) of Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran must be interpreted as meaning that the prohibition on indirectly making available an economic resource, within the meaning of Article 1(i) of that regulation, encompasses acts relating to the supply and installation in Iran of a sintering furnace in working condition but not yet ready to use for the benefit of a third party which, acting on behalf, under the control or on the instructions of a person, an entity or a body listed in Annexes IV and V to that regulation, intends to use that furnace to manufacture, for the benefit of such a person, entity or body, goods capable of contributing to nuclear proliferation in that State;
2. Article 7(4) of Regulation No 423/2007 must be interpreted as meaning that:
 - it covers activities which, under cover of a formal appearance which enables them to avoid the constituent elements of an infringement of Article 7(3) of the regulation, none the less have the object or effect, direct or indirect, of frustrating the prohibition laid down in that provision;
 - the terms ‘knowingly’ and ‘intentionally’ imply cumulative requirements of knowledge and intent, which are met where the person participating in an activity having such an object or such an effect deliberately seeks that object or effect or is at least aware that his participation may have that object or that effect and he accepts that possibility.

⁽¹⁾ OJ C 252, 27.8.2011.

Order of the Court (Seventh Chamber) of 18 November 2011 (reference for a preliminary ruling from the Tribunale di Bari — Italy) — Giovanni Colapietro v Ispettorato Centrale Repressioni Frodi

(Case C-519/10) ⁽¹⁾

(Reference for a preliminary ruling — Articles 92(1), 103(1) and the second subparagraph of 104(3) of the Rules of Procedure — Wine sector — Regulation (EEC) No 822/87 and Regulation (EC) No 343/94 — Answer to the question admitting of no reasonable doubt — Manifest inadmissibility)

(2012/C 49/22)

Language of the case: Italian

Referring court

Tribunale di Bari

Parties to the main proceedings

Applicant: Giovanni Colapietro

Defendant: Ispettorato Centrale Repressioni Frodi

Re:

Reference for a preliminary ruling — Tribunale di Bari — Wine sector — Compulsory distillation system — 1993/1994 wine year — Scope of temporal application of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine (OJ 1987 L 84, p. 1) — Repealing of that regulation by Commission Regulation (EC) No 343/94 of 15 February 1994 opening compulsory distillation as provided for in Article 39 of Council Regulation (EEC) No 822/87 and derogating for the 1993/94 wine year from certain detailed rules for the application thereof (OJ 1994 L 44, p. 9) — Administrative sanction under national law for infringements of Regulation No 822/87 — Applicability in the case of infringement of Regulation No 343/94 — Proportionality of the administrative sanction imposed

Operative part of the order

Commission Regulation (EC) No 343/94 of 15 February 1994 opening compulsory distillation as provided for in Article 39 of Council Regulation (EEC) No 822/87 and derogating for the 1993/94 wine year from certain detailed rules for the application thereof implements Regulation No 822/87 and neither repeals nor replaces it.

⁽¹⁾ OJ C 13, 15.1.2011.

Order of the Court (Fifth Chamber) of 20 October 2011 — DTL Corporación, SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Gestión de Recursos y Soluciones Empresariales SL

(Case C-67/11 P) ⁽¹⁾

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Article 8(1)(b) — Opposition procedure — Figurative mark containing the word element ‘Solaria’ and earlier national figurative mark containing the word element ‘Solartia’ — Registration refused in part — Likelihood of confusion — Request for a stay of the proceedings before the General Court — Failure to lodge the request in good time)

(2012/C 49/23)

Language of the case: Spanish

Parties

Appellant: DTL Corporación, SL (represented by: A. Zuazo Araluze, abogado)