

3. Can a communication derived from an investigative report drawn up by the Economic Inspection Board, or a letter requesting the production of additional documents as evidence of the release for consumption, or a registered letter imposing a sanction, be deemed to be investigation or legal proceedings within the meaning of the third subparagraph of Article 3(1) of Regulation No 2988/95?

⁽¹⁾ OJ 1995 L 312, p. 1.

⁽²⁾ Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products.

Reference for a preliminary ruling from the Sąd Najwyższy (Republic of Poland), lodged on 23 September 2009 — Prezes Urzędu Ochrony Konkurencji i Konsumentów v Tele2 Polska sp. z o.o., now Netia S.A.

(Case C-375/09)

(2009/C 297/25)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Appellant: Prezes Urzędu Ochrony Konkurencji i Konsumentów

Respondent: Tele2 Polska sp. z o.o., now Netia S.A.

Questions referred

1. Is Article 5 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ⁽¹⁾ to be interpreted as meaning that a national competition authority cannot take a decision stating that a practice does not restrict competition within the meaning of Article 82 EC in a case in which it has found, after conducting proceedings, that the undertaking did not breach the prohibition of abuse of a dominant position under that Treaty provision?
2. If the answer to the first question is in the affirmative: in a situation in which, under national competition law — if it should be established that the practice of an undertaking does not infringe the prohibition in Article 82 EC — a national competition authority may bring cartel proceedings

to an end only by taking a decision which states that the practice does not restrict competition, is the third sentence of Article 5 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty to be interpreted as constituting a direct legal basis for that authority to 'decide that there are no grounds for action on [its] part'?

⁽¹⁾ OJ 2003 L 1, p. 1.

Reference for a preliminary ruling from the Augstākās tiesas Senāta Administratīvo lietu departaments lodged on 28 September 2009 — Stils Met SIA v Valsts ieņēmumu dienests

(Case C-382/09)

(2009/C 297/26)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāta Administratīvo lietu departaments

Parties to the main proceedings

Applicant: Stils Met SIA

Defendant: Valsts ieņēmumu dienests

Questions referred

1. Are TARIC codes 7312 10 82 19, 7312 10 84 19 and 7312 10 86 19 to be interpreted as meaning that, in 2004 and 2005, steel articles –ropes and cables not coated or only plated or coated with zinc– and, in particular, alloy steel not consigned from Moldova or Morocco, ought to have been classified under these codes, depending on their cross-sectional dimensions, irrespective of their chemical composition (excluding stainless steel)?
2. Is Article 14(1) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community to be interpreted as precluding a penalty (fine) calculated on the amount of anti-dumping duties which is imposed on the basis of national legislation (Article 32(2) of the Law 'Par nodokļiem un nodevām') governing breaches of tax law?