

Joined Cases C-304/94, C-330/94, C-342/94 and C-224/95

Criminal proceedings against Euro Tombesi and Others

(References for a preliminary ruling
from the Pretura Circondariale di Terni and the Pretura Circondariale di Pescara)
(Waste — Definition — Council Directives 91/156/EEC and 91/689/EEC —
Council Regulation (EEC) No 259/93)

Opinion of Advocate General Jacobs delivered on 24 October 1996 I - 3564
Judgment of the Court (Sixth Chamber), 25 June 1997 I - 3585

Summary of the Judgment

- 1. Preliminary rulings — Jurisdiction of the Court — Limits
(EC Treaty, Arts 169 and 177)*
- 2. Preliminary rulings — Jurisdiction of the Court — Limits — Manifestly irrelevant question
(EC Treaty, Art. 177)*
- 3. Approximation of laws — Waste — Regulation No 259/93 — Meaning — Common definition — Direct applicability to all shipments of waste, including those within Member States
(Council Regulation No 259/93, Art. 2(a); Council Directive 75/442, Art. 1(a))*

4. *Approximation of laws — Waste — Directive 75/442 — Meaning — Substances or objects capable of economic reutilization — Included*
(Council Regulation No 259/93, Art. 2(a); Council Directive 75/442, as amended by Directive 91/156, and Directive 91/689, Art. 1(3))

1. Although the Court may not, under Article 177 of the Treaty, decide upon the validity, in regard to Community law, of a provision of domestic law, as it would be possible for it to do under Article 169 of the EC Treaty, it nevertheless has jurisdiction to supply the national court with an interpretation of Community law on all such points as may enable that court to determine that issue of compatibility for the purposes of the case before it.
2. Under the procedure provided for in Article 177 of the Treaty, it is solely for the national courts before which actions are brought, and which must bear the responsibility for the subsequent judicial decision, to determine in the light of the special features of each case both the need for a preliminary ruling in order to enable them to deliver judgment and the relevance of the questions which they submit to the Court. Dismissal of a request from a national court is possible where it is clear that the interpretation of Community law or the consideration of the validity of a Community rule, requested by that court, has no bearing on the real situation or on the subject-matter of the case in the main proceedings.
3. Article 2(a) of Regulation No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community, provides, in Title I ('Scope and definitions'), that, for the purposes of the regulation, 'waste' means the substances or objects defined in Article 1(a) of Directive 75/442, as amended. That common definition of waste, which was introduced in order to ensure that the national systems for supervision and control of shipments of waste conform with minimum criteria, applies directly to shipments of waste within any Member State.
4. The concept of 'waste' in Council Directive 75/442, as amended by Directive 91/156, referred to in Article 1(3) of Council Directive 91/689 on hazardous waste and Article 2(a) of Regulation No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community, is not to be understood as excluding substances and objects which are capable of economic reutilization, even if the materials in question may be the subject of a transaction or quoted on public or private commercial lists. In particular, a deactivation process intended merely to render waste harmless, landfill tipping in hollows or embankments and waste incineration

constitute disposal or recovery operations falling within the scope of the abovementioned Community rules. The fact that a substance is classified as a re-usable resi-

due without its characteristics or purpose being defined is irrelevant in that regard. The same applies to the grinding of a waste substance.