

On the basis of the petition seeking a posterior review of the unconstitutionality of a statute, the Constitutional Court has adopted the following

order:

The Constitutional Court terminates the proceedings suspended earlier under point 4 of Constitutional Court Decision 30/1998 (VI. 25.) AB (ABH 1998, 220) regarding the establishment of the unconstitutionality, and the annulment, of Article 1, first and second paragraphs and Article 6 of the Annex to Government Decree 230/1996 (XII. 26.) on the promulgation of Hungarian-EC Association Council Decision 2/96 on the implementation rules of Article 62(1), points (i) and (ii), and Article 62(2) of the Europe Agreement on the establishment of the association between the Republic of Hungary and the European Communities and their Member States, and of Article 8(1), points (i) and (ii) and Article 8(2) of Protocol 2 to the above Agreement on ECSC products.

#### Reasoning

The petitioner asked the Constitutional Court to establish the unconstitutional character of, and annul, Article 62(2) of Act I of 1994 on the promulgation of the Europe Agreement signed in Brussels on 16 December 1991 establishing an association between the Republic of Hungary and the European Communities and their Member States (hereinafter: the “Europe Agreement”), Article 8(2) of Protocol 2 promulgated by the Europe Agreement on the products covered by the Treaty Establishing the European Coal and Steel Community, and Article 1, first and second paragraphs and Article 6 of the Annex to Government Decree 230/1996 (XII. 26.) (hereinafter: the “Implementing Rules”) on the promulgation of Hungarian-EC Association Council Decision 2/96 on the implementation rules of Article 62(1), points (i) and (ii) and Article 62(2) of the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their

Member States, and Article 8(1), points (i) and (ii) and Article 8(2) of Protocol 2 to the above Agreement on ECSC products.

In points 1 and 2 of the holdings of Decision 30/1998 (VI. 25.) AB (ABH 1998, 220—hereinafter: the “Decision”), the Constitutional Court decided on the petition submitted regarding Article 62 of the Europe Agreement and Protocol 2 promulgated by the Europe Agreement. In point 3 of the Decision’s holdings, the Constitutional Court established the unconstitutionality of paragraphs 1 and 2 of Section 1 and Section 6 of the Implementing Rules. According to the Decision’s reasoning, the unconstitutionality of the challenged provisions of the Implementing Rules was established on the grounds that under the said rules, the Community law principles to be applied by the Hungarian Competition Authority must be taken into account regardless of whether or not they are a part of Hungarian law, while the principles contained in Article 2 para. (1) and (2) of the Constitution are violated by rules providing for the direct applicability of internal public law norms of the Community in legal relations of a public law nature between the Hungarian state and the subjects of law under its sovereignty. Point 4 of the Decision's holdings suspended the proceedings concerning the nullification of the unconstitutional provisions.

Article 4 of Act X of 2002 on the promulgation of Association Council Decision 1/02 (put into force on 1 April 2002), replacing Association Council Decision 2/96 on the implementation of competition rules on the basis of Article 62(3) of the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their Member States, authorised the Government to promulgate by decree, in a specific order, the official Hungarian translation of the Community norms listed, to act concerning the review of the Appendix, and to promulgate by decree, according to the amendments, the official Hungarian translation of the new Community norms entered in the Appendix.

On the basis of Section 3 of Government Decree 39/2002 (III. 12.) on the promulgation of the Community rules listed in the Appendix to Association Council Decision 1/02 promulgated by Act X of 2002, replacing Association Council Decision 2/96 on the implementation of competition rules on the basis of Article 62(3) of the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their Member States, the provisions of the Implementing Rules challenged by the petitioner were repealed on 1 April 2002.

Based on the above, under Section 31 item a) of Decision 3/2001 (XII. 3.) Tü. (ABK December 2001, 683) by the Full Session on the Constitutional Court’s provisional rules of procedure and the publication thereof – with the petition made irrelevant by the repeal of the

challenged provisions – the Constitutional Court terminated the proceedings launched and suspended in respect of Article 1 (1) and (2) and Article 6 of the Implementing Rules.

Budapest, 27 May 2002

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