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29.7.2019

EN

Official Journal of the European Union

C 255/19

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 23 April 2019 — Staatssecretaris van Financiën v X

(Case C-331/19)

(2019/C 255/27)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Other party: X

Questions referred

1.

Must the term ‘foodstuffs for human consumption’ used in point 1 of Annex III to the 2006 VAT Directive (1) be interpreted as covering, in accordance with Article 2 of Regulation (EC) No 178/2002 (2) of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans?

If this question is answered in the negative, how must that term then be defined?

2.

If edible or potable products cannot be regarded as foodstuffs for human consumption, on the basis of which criteria must it then be assessed whether such products can be regarded as products normally used to supplement foodstuffs or as a substitute for foodstuffs?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

(2) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European

Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).