

# ECJ Preliminary Ruling Request (Customs): *A GmbH & Co. KG* (Case C-104/23) - *Bundesfinanzhof* Submits Referral on Classification of Calf Hutches Under Combined Nomenclature

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On 30 May 2023, a preliminary ruling request, lodged on 22 February 2023, was published in the Official Journal of the European Union. By this, the *Bundesfinanzhof* (Federal Finance Court, Germany) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case *A GmbH & Co. KG v. Hauptzollamt B* (Case C-104/23) on whether specific imported articles (consisting of walls and roof and, for some models, an integral floor) of different sizes and designs, which are described as calf hutches or igloos, are 'prefabricated buildings' within the meaning of heading 9406 of the Combined Nomenclature (CN), or if they shall be classified under other headings of the CN for tariff purposes.

The *Bundesfinanzhof* requested the ECJ to answer the following questions:

Does Combined Nomenclature [[Regulation on the tariff and statistical nomenclature and on the Common Customs Tariff \(87/2658\)](#)] heading 9406 necessarily require that a prefabricated building completely enclose a space on all sides?

If Question 1 is answered in the negative, does Combined Nomenclature heading 9406 require that the prefabricated building be large enough for a person of average height to be able to enter it, and does that require it to have at least one area that such a person can enter in an upright position, or is it sufficient for the person to be able to enter it in a bent-over position?"