

**Reference for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) (United Kingdom) made on 12 December 2016 — American Express Co. v The Lords Commissioners of Her Majesty's Treasury**

**(Case C-643/16)**

(2017/C 078/15)

*Language of the case: English*

**Referring court**

High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court)

**Parties to the main proceedings**

*Applicant:* American Express Co.

*Defendant:* The Lords Commissioners of Her Majesty's Treasury

**Questions referred**

- (1) Does a payment system, to which the Access Obligation provided for in Article 35(1) of Directive (EU) 2015/2366 <sup>(1)</sup> ('PSD2') would otherwise not apply, by virtue of Article 35(2)(b) PSD2, render itself subject to that Obligation (i) by entering into co-brand arrangements with co-brand partners who do not themselves provide payment services on that system in relation to that co-branded product offering and/or (ii) by using an agent to act on its behalf in providing payment services?
- (2) If the answer to Question (1) is 'yes', is Article 35(1) of PSD2 invalid in so far as it provides that systems with such arrangements are to be subject to the Access Obligation, on the grounds of:
  - (a) failure to provide reasons in accordance with Article 296 TFEU;
  - (b) manifest error of assessment; and/or
  - (c) breach of the principle of proportionality?

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<sup>(1)</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ 2015, L 337, p. 35).

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**Request for a preliminary ruling from the Nejvyšší soud České republiky (Czech Republic) lodged on 19 December 2016 — Jitka Svobodová v Česká republika — Okresní soud v Náchodě**

**(Case C-653/16)**

(2017/C 078/16)

*Language of the case: Czech*

**Referring court**

Nejvyšší soud České republiky

**Parties to the main proceedings**

*Applicant:* Jitka Svobodová

*Defendant:* Česká republika — Okresní soud v Náchodě