

**Question referred**

Under Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters,<sup>(1)</sup> in non-contractual claims based on prospectus liability where

- the investor took his investment decision caused by the defective prospectus at the place where he is domiciled
  - and, on the basis of that decision, he transferred the purchase price for the security acquired on the secondary market from his account held with an Austrian bank to a clearing account held with another Austrian bank, from where the purchase price was subsequently transferred to the seller by order of the applicant,
- (a) does jurisdiction lie with the court within whose area of jurisdiction the investor is domiciled,
  - (b) does jurisdiction lie with the court within whose area of jurisdiction the seat/the account-keeping branch of the bank with which the applicant has his bank account from which he transferred the amount invested to the clearing account is located,
  - (c) does jurisdiction lie with the court within whose area of jurisdiction the seat/the account-keeping branch of the bank which keeps the clearing account is located,
  - (d) does jurisdiction lie with one of those courts at the choice of the applicant,
  - (e) does jurisdiction lie with none of those courts?

<sup>(1)</sup> OJ 2001 L 12, p. 1.

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**Request for a preliminary ruling from the Okresný súd Bratislava (Slovakia) lodged on 26 May 2017 — FENS spol. s r.o. v Slovak Republic — Úrad pre reguláciu sieťových odvetví**

(Case C-305/17)

(2017/C 269/10)

*Language of the case: Slovak*

**Referring court**

Okresný súd Bratislava

**Parties to the main proceedings**

*Applicant:* FENS spol. s r.o.

*Defendant:* Slovak Republic — Úrad pre reguláciu sieťových odvetví

**Questions referred**

1. Must Article 30 TFEU be interpreted as precluding a national rule such as Article 12(9) of the Nariadenie vlády Slovenskej republiky č. 317/2007 Z. z., ktorým sa ustanovujú pravidlá pre fungovanie trhu s elektrinou (Regulation No 317/2007 of the Government of the Slovak Republic laying down rules for the functioning of the market in electricity — ‘the regulation’) which introduces a specific pecuniary charge for the export of electricity from the territory of the Slovak Republic, regardless of whether that electricity is exported from Slovak territory to the Member States of the European Union or to third countries, in circumstances in which the electricity exporter fails to demonstrate that the electricity exported has been imported into the Slovak Republic, that is to say, a pecuniary charge levied solely on electricity generated in the Republic of Slovakia and exported from it?
2. Does a pecuniary charge, such as the charge introduced by Article 12(9) of the [regulation], namely: a charge applied solely to electricity generated in the Slovak Republic and at the same time exported from the territory of the Slovak Republic, regardless of whether it is exported to third countries or to the Member States of the European Union, also constitute a charge having equivalent effect to a customs duty within the meaning of Article 28(1) TFEU?
3. Is a national rule such Article 12(9) of the [regulation] compatible with the principle of free movement of goods laid down by Article 28 TFEU?