

2. Is a natural person who, prior to the date of 1 November 2007 specified in Article 70 of Directive 2004/39/EC, acquired a derivative financial instrument from a bank using funds borrowed from that bank on the basis of collateral in favour of that bank to be regarded as a retail client and a non-professional investor in financial instruments under EU law, and, if that is the case, must the provisions of EU law establishing consumer information obligations and prohibiting conflicts of interest when a bank offers and sells a financial instrument, such as the provisions laid down in Directive 2003/6,⁽³⁾ Directive 2003/71/EC,⁽⁴⁾ Directive 2001/34/EC,⁽⁵⁾ Regulation (EC) No 809/2004,⁽⁶⁾ the MiFID II Directive⁽⁷⁾ and other rules of EU legislation protecting the rights of financial services consumers, be applied in the present case?
3. Is Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) to be interpreted as meaning that failure to disclose the fact that the financial instrument provider is not authorised to provide that financial service, failure to disclose essential information in a prospectus and in the supplement to a prospectus, as well as a potential conflict of interest on the part of the financial instrument provider, may, during the conclusion of contracts relating to a financial instrument, have a direct effect (in a particular direction) on the price of the financial instruments concerned, and that the other party to the contract thus has the right to request that those contracts be annulled or modified, or that compensation be paid for the losses incurred?

⁽¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ 2004 L 145, p. 1).

⁽²⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

⁽³⁾ Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (OJ 2003 L 96, p. 16).

⁽⁴⁾ Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ 2003 L 345, p. 64).

⁽⁵⁾ Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (OJ 2001 L 184, p. 1).

⁽⁶⁾ Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ 2004 L 149, p. 1).

⁽⁷⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ 2014 L 173, p. 349).

Request for a preliminary ruling from the Hessisches Finanzgericht (Germany) lodged on 16 January 2018 — Federal Express Corporation, German branch v Hauptzollamt Frankfurt am Main

(Case C-26/18)

(2018/C 152/04)

Language of the case: German

Referring court

Hessisches Finanzgericht

Parties to the main proceedings

Applicant: Federal Express Corporation, German branch

Defendant: Hauptzollamt Frankfurt am Main

Questions referred

1. Is importation within the meaning of Articles 2(1)(d) and 30 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽¹⁾ subject to the condition that goods which have been introduced into the territory of the European Union must enter the economic network of the European Union, or is the mere risk that the goods introduced may enter the economic network of the European Union sufficient?

If importation is subject to the condition that goods must enter the economic network of the European Union:

2. Do goods which have been introduced into the territory of the European Union automatically enter the economic network of the European Union in the case where, contrary to customs law, those goods are not placed under an arrangement within the meaning of the first paragraph of Article 61 of the Directive or, although initially placed under such an arrangement, they later cease to be covered by that arrangement on account of conduct contrary to customs law, or is it the case that, in the event of conduct contrary to customs law, entry into the economic network of the European Union is subject to the condition that it may be presumed that, on account of the conduct contrary to customs law, the goods entered the economic network of the European Union in the fiscal territory of the Member State in which the unlawful conduct was committed and may have been consumed or used?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 18 January 2018 — Tiroler Gebietskrankenkasse v Michael Moser

(Case C-32/18)

(2018/C 152/05)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant on a point of law: Tiroler Gebietskrankenkasse

Respondent in the appeal on a point of law: Michael Moser

Questions referred

1. Must the second sentence of Article 60(1) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Regulation No 883/2004)⁽¹⁾ be interpreted as meaning that a Member State having secondary competence (Austria) must pay, as a family benefit, to a parent resident and employed in a Member State having primary competence in accordance with Article 68(1)(b)(i) of Regulation No 883/2004 (Germany) the difference between the 'Elterngeld' (parental allowance) paid in the Member State having primary competence and the income-dependent 'Kinderbetreuungsgeld' (childcare allowance) in the other Member State, in the case where both parents live with their common children in the Member State having primary competence and the second parent alone is employed as a cross-border worker in the Member State having secondary competence?