

2. Should the interpretation given in the judgments of the Court of 9 March 2017, *Zulfikarpašić* (C-484/15, EU:C:2017:199) and *Pula Parking* (C-551/15, EU:C:2017:193) be applied in the present case, Povrv-2032/17, which the referring court must hear and determine?

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 23 October 2018 — AQ v
Ministre de l'Action et des Comptes publics**

(Case C-662/18)

(2019/C 4/24)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: AQ

Defendant: Ministre de l'Action et des Comptes publics

Questions referred

- Must the provisions of Article 8 of the Directive of 19 October 2009 ⁽¹⁾ be interpreted as precluding different bases of assessment and rate rules being used to tax the capital gain arising on a transfer of securities received in exchange and the deferred capital gain?
- Must those provisions be interpreted in particular as precluding a situation in which reductions of the basis of assessment intended to take into account the period for which securities have been held do not apply to the deferred capital gain, having regard to the fact that that basis of assessment rule did not apply on the date on which the capital gain arose, but they do apply to the capital gain on a transfer of the securities received in exchange, taking into account the date of the exchange instead of the date on which the securities given in exchange were acquired?

⁽¹⁾ Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ 2009 L 310, p. 34).

**Request for a preliminary ruling from the Cour d'appel d'Aix-En-Provence (France) lodged on
23 October 2018 — Criminal proceedings against B S and C A**

(Case C-663/18)

(2019/C 4/25)

Language of the case: French

Referring court

Cour d'appel d'Aix-En-Provence

Parties to the main proceedings

B S and C A

Interveners: Ministère public, Conseil national de l'ordre des pharmaciens

Question referred

The Court of Justice of the European Union is requested to deliver a preliminary ruling on the interpretation of Articles 28, 29, 30 and 32 TFEU, of Regulations No 1307/2013 ⁽¹⁾ and No 1308/2013 ⁽²⁾ and of the principle of the free movement of goods, referring to it the question whether those provisions must be interpreted as meaning that the derogating provisions introduced by the arrêté (Decree) of 22 August 1990, by limiting the cultivation, industrialisation and marketing of hemp solely to fibre and seeds, impose a restriction that is not in accordance with [EU] law.

⁽¹⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013 L 347, p. 608).

⁽²⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ 2013 L 347, p. 671).

Request for a preliminary ruling from the Cour d'appel de Paris (France) lodged on 24 October 2018 — IT Development SAS v Free Mobile SAS**(Case C-666/18)**

(2019/C 4/26)

*Language of the case: French***Referring court**

Cour d'appel de Paris

Parties to the main proceedings*Appellant:* IT Development SAS*Respondent:* Free Mobile SAS**Question referred**

Does a software licensee's non-compliance with the terms of a software licence agreement (by expiry of a trial period, by exceeding the number of authorised users or some other limit, such as the number of processors which may be used to execute the software instructions, or by modifying the source code of the software where the licence reserves that right to the initial rightholder) constitute:

- an infringement (for the purposes of Directive 2004/48 of 29 April 2004 ⁽¹⁾) of a right of the author of the software which is reserved by Article 4 of Directive 2009/24/EC of 23 April 2009 on the legal protection of computer programs ⁽²⁾
- or may it comply with a separate system of legal rules, such as the system of rules on contractual liability under ordinary law?

⁽¹⁾ Directive 2004/48/EC of the European parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).

⁽²⁾ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ 2009 L 111, p. 16).