



**Request for a preliminary ruling from the Administrativen sad Varna (Bulgaria) made on 7 August 2025 – D.P.P. v Direktor na Teritorialna direksia Mitnitsa Varna; Okrazhna prokuratura Varna**

**(Case T-586/25, TD na Mitnitsa Varna)**

(C/2025/5851)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad – Varna

**Parties to the main proceedings**

*Appellant in the appeal on a point of law:* D.P.P.

*Respondent in the appeal on a point of law:* Direktor na Teritorialna direksia Mitnitsa Varna

*Other party to the proceedings:* Okrazhna prokuratura Varna

**Questions referred**

1. Must Article 267(3)(e) of Regulation (EU) 952/2013 laying down the Union Customs Code <sup>(1)</sup> be interpreted as meaning that, where there is a national prohibition such as that under Article 33(2) of the Zakon za tyutyuna, tyutyunevite i svarzanite s tyah izdelia (Law on tobacco, tobacco products and related products), the Member States are empowered, in the event of an attempt to export across the State border goods which are subject to that prohibition, to impose the penalties provided for in Article 42 of the Customs Code and take the measures provided for in Article 198(1)(b)(iv) of the Customs Code, read in conjunction with Articles 83(1) and 124(1) thereof, irrespective of whether the goods were declared or are deemed to have been hidden?
2. Must Article 42 of Regulation (EU) 952/2013 be interpreted as meaning that, in the event of offences against a national export prohibition and the application of the penalties prescribed for those offences, the conduct of a natural person may be classified as attempted customs smuggling solely on the basis of the facts that undeclared goods – tobacco products – that are subject to an export prohibition are carried in his or her hold baggage, without examining the facts as regards the deliberate hiding of the goods and the subjective attitude of the person (intent)?
3. Must the concept ‘goods of a non-commercial nature’ for the purposes of Article 1(21)(b)(ii) of Delegated Regulation (EU) 2015/2446 <sup>(2)</sup> be given an autonomous and uniform interpretation, both when applying the customs formalities for export from the customs territory of the Union and when applying national restrictions on the export of excise goods, or may the Member States apply specific national criteria that take account of the risks of illegal trade in such goods as well as apply the associated legal provisions, such as those relating to the excise duty regime or export prohibitions?
4. Must Article 1(21)(b)(ii) of Delegated Regulation 2015/2446 and Article 198(1)(b)(iv) of the Customs Code be interpreted as meaning that, where the goods subject to a prohibition are tobacco products – cigarettes bearing an excise stamp – the question of whether they are ‘goods of a non-commercial nature’ must be determined solely on the basis of the quantitative criterion, namely the quantity permitted for import into the State into whose territory the goods are being exported, or is it permissible also to take the following into consideration: the commercial status of the holder of the excise goods and his or her reasons for holding them; the place where the goods are located and the mode of transport used; any other document that attests to the existence of a specific consignee in the State into which the goods are being exported?

<sup>(1)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1).

<sup>(2)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ 2015 L 343, p. 1).

5. Must Article 42, Article 83(1) and (3) and Article 198(1)(b)(iv) of Regulation (EU) 952/2013 be interpreted as allowing a provision of national law such as that under paragraph 3 of Article 233 of the Zakon za mitnitsite (Law on Customs), read in conjunction with paragraph 1 thereof, which, for attempted smuggling of tobacco products, provides for the imposition of a fine equal to at least 200 % of their selling price?
  6. Must Article 42, Article 83(1) and (3) and Article 198(1)(b)(iv) of Regulation (EU) 952/2013 and Articles 17(1) and 49(3) of the Charter of Fundamental Rights of the European Union be interpreted as allowing a provision of national law such as that under paragraph 3 of Article 233 of the Law on Customs, read in conjunction with paragraphs 1 and 6 thereof, under which, where tobacco products are smuggled, the offender may be subject, in addition to a fine equal to at least 200 % of their selling price, to an order for confiscation for the benefit of the State of the entire quantity of the tobacco products carried that were involved in the offence, irrespective of the fact that the cigarettes were lawfully acquired and not intended for commercial purposes and the excise duty due on them has been paid in the Member State of acquisition?
  7. If such a provision of national law is not permissible, how is the correct application of EU law in the area of customs policy to be ensured and achieved in order that, on the one hand, the offence does not go unpunished and, on the other hand, the principle of proportionality is observed?
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