

**Parties to the main proceedings**

Appellant: X

Respondent: Voorzitter van het managementteam van het onderdeel Belastingdienst/Z van de rijksbelastingdienst

**Operative part of the judgment**

1. Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, as amended by Council Directive 2004/74/EC of 29 April 2004, must be interpreted as meaning that the fact of using, firstly, coal as a heating fuel in the sugar production process and, secondly, carbon dioxide generated by the combustion of that energy product to produce chemical fertilizers does not constitute 'dual use' of that energy product within the meaning of that provision.

However, the fact of using, firstly, coal as a heating fuel in the sugar production process and, secondly, carbon dioxide generated by the combustion of that energy product for the purposes of the same production process does constitute such 'dual use' if it is established that the sugar production process cannot be completed without using the carbon dioxide generated by the combustion of the coal.

2. A Member State is entitled to apply, in its national law, a more restrictive scope of the concept of 'dual use' than that which it has under the second indent of Article 2(4)(b) of Directive 2003/96, as amended by Directive 2004/74, in order to levy a tax on energy products excluded from the scope of that directive.

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(<sup>1</sup>) OJ C 399, 22.12.2012.

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**Judgment of the Court (Second Chamber) of 17 September 2014 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Almer Beheer BV, Daedalus Holding BV v Van den Dungen Vastgoed BV, Oosterhout II BVBA**

(Case C-441/12) (<sup>1</sup>)

**(Reference for a preliminary ruling — Company law — Directive 2003/71/EC — Article 3(1) — Obligation to publish a prospectus when securities are offered for sale to the public — Enforced sale of securities)**

(2014/C 421/05)

Language of the case: Dutch

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

Applicants: Almer Beheer BV, Daedalus Holding BV

Defendants: Van den Dungen Vastgoed BV, Oosterhout II BVBA

**Operative part of the judgment**

Article 3(1) of 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, as amended by Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008, must be interpreted as meaning that the obligation to publish a prospectus prior to any offer of securities to the public is not applicable to an enforced sale of securities, such as that at issue in the main proceedings.

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(<sup>1</sup>) OJ C 9, 12.1.2013.