

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 2 August 2017 —
Repsol Butano, S.A. v Administración del Estado**

(Case C-473/17)

(2017/C 382/37)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Repsol Butano, S.A.

Defendant: Administración del Estado

Questions referred

1. In the light of the case-law laid down in *Federutility*,⁽¹⁾ is a measure setting a maximum price for cylinders of bottled liquefied gas, in so far as it is a measure for the protection of socially vulnerable users, compatible with that case-law or with the principle of proportionality where, separately or together, any of the following circumstances occur?
 - the measure is adopted as a general measure in relation to all consumers and for an indefinite period ‘while the conditions of competition on this market are not considered to be sufficient’,
 - the measure has already been in force for more than 28 years,
 - the measure may contribute to freezing the situation of limited competition by impeding the entry of new operators.
2. In the light of the case-law laid down in *Federutility*, is a measure for the compulsory home delivery of bottled liquefied gas, in so far as it is a measure for the protection of socially vulnerable users or residents in areas that are difficult to access, compatible with that case-law or with the principle of proportionality where, separately or together, any of the circumstances listed in the previous question occur?

⁽¹⁾ Judgment of 20 April 2010, *Federutility and Others* (C-265/08, EU:C:2010:205).

**Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 8 August
2017 — Bundesrepublik Deutschland v Sociedad de Transportes SA**

(Case C-474/17)

(2017/C 382/38)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Defendant and appellant on a point of law: Bundesrepublik Deutschland

Applicant and respondent in the appeal on a point of law: Sociedad de Transportes SA

Questions referred

1. Do Article 67(2) TFEU and Articles 22 and 23 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Control) ⁽¹⁾ preclude a provision of national law of a Member State which has the effect of requiring bus undertakings operating regular services across a Schengen internal border to check their passengers' travel documents before crossing an internal border in order to prevent foreign nationals not in possession of a passport or residence permit from being brought into the territory of the Federal Republic of Germany?

In particular:

- (a) Does the general statutory duty, or the administrative obligation directed at individual carriers, not to bring into federal territory foreign nationals not in possession of a passport or residence permit as required, which is properly discharged only if carriers check all passengers' travel documents before crossing an internal border, constitute, or fall to be treated as, a check on persons at internal borders within the meaning of Article 22 of the Schengen Borders Code?
 - (b) Is the imposition of the duties referred to in point 1 to be assessed by reference to Article 23(a) of the Schengen Borders Code, even though carriers do not exercise 'police powers' within the meaning of that provision and, moreover, do not formally enjoy any powers of public authority by virtue of the State-imposed obligation to carry out checks?
 - (c) If the answer to Question 1(b) is in the affirmative, do the checks which carriers are required to carry out, taking into account the criteria laid down in the second sentence of Article 23(a) of the Schengen Borders Code, constitute an impermissible measure having an effect equivalent to border checks?
 - (d) Is the imposition of the duties referred to in point 1, in so far as it concerns bus undertakings operating regular services, to be assessed by reference to Article 23(b) of the Schengen Borders Code, which provides that the absence of border control at internal borders is not to affect the power of carriers to carry out security checks on persons at ports and airports? Does it follow from this that checks within the meaning of Question 1 are impermissible even when carried out other than at ports and airports if they do not constitute security checks and are not also carried out on persons travelling within a Member State?
2. Do Articles 22 and 23 of the Schengen Borders Code permit provisions of national law under which, for the purposes of ensuring compliance with that duty, an order imposing a prohibition on pain of a penalty payment may be made against a bus undertaking in cases where the failure to carry out checks has enabled even foreign nationals not in possession of a passport or residence permit to be brought into the territory of the Federal Republic of Germany?

⁽¹⁾ OJ 2016 L 77, p. 1.

**Request for a preliminary ruling from the Finanzgericht Köln (Germany) lodged on 9 August 2017 —
Frank Montag v Finanzamt Köln-Mitte**

(Case C-480/17)

(2017/C 382/39)

Language of the case: German

Referring court

Finanzgericht Köln

Parties to the main proceedings

Applicant: Frank Montag

Defendant: Finanzamt Köln-Mitte