

Party to the main proceedings

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Questions referred

1. Is it compatible with Article 4 of Directive 2012/13/EU ⁽¹⁾ of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings ('Directive 2012/13/EU'), Article 8(2) of Directive 2012/13/EU, the right to liberty and security under Article 6 of the Charter of Fundamental Rights of the European Union, the right of defence under Article 48(2) of the Charter of Fundamental Rights of the European Union and the right to a fair trial under Article 47 of the Charter of Fundamental Rights of the European Union for the national authorities not to provide the detainee, throughout the period of detention, with the information referred to in Article 4(2) of Directive 2012/13/EU (in particular the right to access to the materials of the case), fully or completely, and not to permit the detainee to challenge that failure to provide information in accordance with Article 8(2) of Directive 2012/13/EU? If the reply to that question should be in the negative, does that infringement of the law of the European Union affect, at any stage in the criminal proceedings, the legality of the deprivation of personal liberty when the detainee has been placed in pre-trial detention, in addition to the continuation of such pre-trial detention, taking account of Article 6 of the Charter of Fundamental Rights of the European Union and Article 5(1)(c) of the Convention for the Protection of Human Rights and Fundamental Freedoms? For the purposes of answering the foregoing questions, is it relevant that the detainee has been charged with a serious crime, for which national legislation provides for imprisonment for a minimum term of 15 years?
2. Is a provision of national law that does not permit the court to impose a term of imprisonment of less than 15 years, without any possibility of account being taken of the principle that the penalty should be specific to the offender and to the offence — such as Section 172(3) of the Slovak Criminal Code, which punishes illicit drug trafficking — compatible with Article 4 of Council Framework Decision 2004/757/JHA ⁽²⁾ of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, with the principle of sincere cooperation under Article 4(3) of the Treaty on European Union, with Article 267 of the Treaty on the Functioning of the European Union, with Articles 82 and 83 of the Treaty on the Functioning of the European Union, with the right to a fair trial laid down in Article 47 of the Charter of Fundamental Rights of the European Union, with the principle of the proportionality of penalties under Article 49(3) of the Charter of Fundamental Rights of the European Union and with the principles of proportionality, unity, effectiveness and the primacy of EU law? For the purposes of answering that question, is it relevant that the illicit drug trafficking was not committed by a criminal organisation within the meaning of EU law? Has the concept of criminal organisation for the purposes of Article 1 of Council Framework Decision 2008/841/JHA ⁽³⁾ of 24 October 2008 on the fight against organised crime an autonomous meaning in the light of the settled case-law of the Court of Justice on the conditions for the uniform application of EU law?

⁽¹⁾ OJ 2012 L 142, p. 1.

⁽²⁾ OJ 2004 L 335, p. 8.

⁽³⁾ OJ 2008 L 300, p. 42.

**Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on
4 September 2017 — Milan Božičević Ježovnik v Republic of Slovenia**

(Case C-528/17)

(2017/C 374/29)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellant: Milan Božičević Ježovnik

Respondent: Republic of Slovenia

Questions referred

1. Is the importer (declarant), who at the time of the import requests exemption from payment of VAT (import in accordance with procedure 42), inasmuch as the goods are intended to be supplied in another Member State, liable for payment of the VAT (when it is subsequently found that the conditions necessary for exemption have not been satisfied) in the same way that he is liable for payment of the customs debt?
2. If the answer is in the negative, is the liability of the importer (declarant) equal to that of the taxable person who makes the intra-Community supply of exempt goods, for the purposes of Article 138(1) of the VAT Directive?
3. In the latter case, must the subjective element showing that the importer (declarant) intended to abuse the VAT scheme be assessed differently from the case of the intra-Community supply of goods referred to in Article 138(1) of the VAT Directive? Must that assessment be more concessive, in the light of the fact that in procedure 42 exemption from payment of VAT must be authorised in advance by the customs authority? Or must it be more restrictive, inasmuch as the transactions concerned are connected with the first entry into the European Union internal market of goods originating from third countries?

Appeal brought on 7 September 2017 by Mykola Yanovych Azarov against the judgment of the General Court (Sixth Chamber) of 7 July 2017 in Case T-215/15, M.Y. Azarov v Council of the European Union

(Case C-530/17 P)

(2017/C 374/30)

Language of the case: German

Parties

Appellant: Mykola Yanovych Azarov (represented by: A. Egger and G. Lansky, Rechtsanwälte)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of 7 July 2017 in Case T-215/15;
2. give final judgment itself in the case and annul Council Decision (CFSP) 2015/364⁽¹⁾ of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Implementing Regulation (EU) 2015/357⁽²⁾ of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, in so far as they concern the appellant, and order the Council to pay the costs of the proceedings before the General Court and the Court of Justice;
3. in the alternative to the second head of claim above, refer the case back to the General Court for determination in line with the legal assessment contained in the judgment of the Court of Justice, and reserve the decision on costs.

Grounds of appeal and main arguments

The appellant raises the following grounds of appeal:

- (1) The General Court infringed Article 296 TFEU and Article 41 of the Charter of Fundamental Rights in finding that the Council had not erred in law in its reasons for the restrictive measures. The Council did not set out the reasons in a sufficiently specific and concrete manner.
- (2) The General Court erred in finding that the Council had not infringed fundamental rights. The General Court erred in law in its assessment of the interference with property rights and the freedom to run a business. In particular, it erred in law in finding that the measures were appropriate and proportionate. Moreover, the General Court committed procedural errors and infringed procedural rights.