

3. Failure to assess the applicant's prior EUTM 3971561

The applicant also claims that EUIPO and the General Court ought to have considered the reasons (thus considering such decisions not as binding precedents but as marks allowed on the grounds of the legally recognition of their registrability) that led to the grant of community trade mark No 3971561, which belongs to the applicant too, for the same goods and having a sign very similar to that of the sign refused.

4. Failure to assess other marks registered as 'colour combinations'

In the earlier stages of the present proceedings other EU trade marks that represent very important precedents with regard to the present case were mentioned.

Refusal of registration of the trade mark at issue appears, therefore, unreasonable, if not entirely groundless, and constitutes an error in law, if the earlier decisions are regarded not as binding precedents but rather as the expression of principles of law repeatedly affirmed by EUIPO and the General Court of the European Union.

**Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny we Wrocławiu (Poland)
lodged on 26 September 2017 — Związek Gmin Zagłębia Miedziowego w Polkowicach v Szef
Krajowej Administracji Skarbowej**

(Case C-566/17)

(2018/C 013/05)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny we Wrocławiu

Parties to the main proceedings

Applicant: Związek Gmin Zagłębia Miedziowego w Polkowicach

Defendant: Szef Krajowej Administracji Skarbowej

Question referred

Do Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ and the principle of VAT neutrality preclude a national practice where the right is granted to a full deduction of input tax in connection with the purchase of goods and services used both for the purposes of a taxable person's transactions falling within the scope of VAT (taxed and exempted) and falling outside the scope of VAT, owing to the absence in national law of methods and criteria for apportioning the input tax in relation to those types of transaction?

⁽¹⁾ OJ 2006 L 347, p. 1.

**Request for a preliminary ruling from the Finanzgericht Baden-Württemberg (Germany) lodged on
4 October 2017 — Martin Wächtler v Finanzamt Konstanz**

(Case C-581/17)

(2018/C 013/06)

Language of the case: German

Referring court

Finanzgericht Baden-Württemberg

Parties to the main proceedings

Applicant: Martin Wächtler

Defendant: Finanzamt Konstanz

Question referred

Are the provisions of the Agreement of 21 June 1999 ⁽¹⁾ between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, which entered into force on 1 June 2002, and in particular the preamble and Articles 1, 2, 4, 6, 7, 16 and 21 thereof and Article 9 of Annex I thereto, to be interpreted as precluding rules of a Member State under which, in order to prevent any element of the taxable basis from being lost, latent, as yet unrealised, appreciations in the value of company rights (without deferment) are charged to tax in the case where a national of that Member State with initially unlimited tax liability transfers his residence from that State to Switzerland and not to a Member State of the European Union or to a State to which the European Economic Area Agreement applies?

⁽¹⁾ OJ 2002 L 114, p. 6.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 5 October 2017 — Finanzamt Linz, Finanzamt Kirchdorf Perg Steyr

(Case C-585/17)

(2018/C 013/07)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicants: Finanzamt Linz, Finanzamt Kirchdorf Perg Steyr

Intervener: Dilly's Wellnesshotel GmbH

Questions referred

1. In a situation such as that in the present case, does an amendment to an approved aid scheme whereby a Member State elects no longer to use the approval of that aid in connection with a particular (separable) group of beneficiaries, and thus simply reduces the level of aid granted under an existing aid measure, constitute an alteration of an aid scheme which is subject (in principle) to the obligation to notify laid down in Article 108(3) TFEU?
2. In the event of a formal error in the application of Commission Regulation (EC) No 800/2008 ⁽¹⁾ of 6 August 2008 (general block exemption regulation), is the standstill obligation laid down in Article 108(3) TFEU capable of rendering a restriction of an approved aid scheme inapplicable, with the result that the standstill obligation has the effect of compelling the Member State to pay aid to particular beneficiaries ('implementation obligation')?
- 3a. Does an energy tax rebate scheme such as that at issue here, under which the amount of the energy tax rebate is clearly determined by law on the basis of a calculation formula, fulfil the conditions laid down in Commission Regulation (EU) No 651/2014 ⁽²⁾ of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty?