

- f) The contractual terms which set out when title to the goods passes to the customer do not make commercial sense, but this does not matter in practice, because the supplier makes good to the customer the cost of any damage to the goods during delivery.
- g) In relation to delivery charges where there is a problem with the original delivery:
- i) under its contract with the customer the supplier is obliged to refund the charges already paid by the customer;
 - ii) under its contract with the customer the supplier is not obliged to refund those charges, but does so as a matter of practice;
 - iii) in either case, the supplier (and not the delivery company) bears the cost of these refunds; and/or
 - iv) under its contract with the customer the supplier is obliged to pay both the costs of sending replacement goods, and the related delivery charge; or
 - v) under its contract with the customer the supplier is obliged to pay the cost of sending replacement goods, but not for their delivery, but does so as a matter of practice.
3. If the answer to question 2 is no, does the delivery company act on behalf of the supplier if more than one of the above points are satisfied? If so, which factors must be taken into account and what weight is to be given to each factor?
4. If the answer to either Question 2 or Question 3 is yes, does the delivery company act on behalf of the supplier where the supplier intervenes directly or indirectly in the transport or dispatch of the goods, as will be the case from 2021 under Directive 2017/2455 ⁽²⁾? In other words, do the changes introduced by that Directive simply express in clearer language the meaning of Article 33 in its current form?

⁽¹⁾ Article 32 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006, L 347, p. 1).

⁽²⁾ Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ 2017, L 348, p. 7).

**Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Bulgaria) lodged on
12 November 2018 — Criminal proceedings against LD, ME, NF, OG, PH and RI**

(Case C-704/18)

(2019/C 25/38)

Language of the case: Bulgarian

Referring court

Spetsiliziran nakazatelen sad

Parties to the main proceedings

LD, ME, NF, OG, PH and RI

Question referred

Must Article 267 TFEU be interpreted as authorising a national court not to apply a preliminary ruling in the main proceedings with regard to which it was issued in reliance on the factual circumstances taken into account by the Court when it gave the preliminary ruling?
