

**Request for a preliminary ruling from the Špecializovaný trestný súd (Slovakia) lodged on  
14 November 2018 — Criminal proceedings against UL and VM**

**(Case C-709/18)**

(2019/C 44/19)

*Language of the case: Slovak*

**Referring court**

Špecializovaný trestný súd

**Parties to the main proceedings**

UL and VM

**Questions referred**

1. Is the rule of the presumption of innocence — enshrined in Articles 3 and 4, read in conjunction with recital 16, of Directive (EU) 2016/343 <sup>(1)</sup> of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings — observed where a co-defendant in joint criminal proceedings, on the basis of the indictment and after the commencement of the main hearing, denies participation in the act or acts alleged against him, declaring himself to be innocent, and, subsequently, the court, by means of an order which contains no description of the act or its legal qualification or any assessment on the court's part, decides to accept the declaration of another co-defendant that he is guilty of committing one or more of the acts described in the indictment, thus waiving his right to the taking of evidence regarding his guilt, and, subsequently, after the taking of evidence at the main hearing, the court reaches its decision on the indictment in a joint judgment?
  - 1.1 Where the decision of a court to accept the declaration of guilt of one co-defendant denotes another co-defendant — who has denied guilt — as being guilty, before evidence is taken which proves him to be guilty, is that manner of proceeding in accordance with Article 48 of the Charter of Fundamental Rights of the European Union?
2. Is it consistent with Article 47 of the Charter of Fundamental Rights of the European Union — which enshrines the right to a fair trial and the right of every person to have his case dealt with fairly by an independent and impartial tribunal — where, in joint proceedings on a common indictment against several defendants, the lawful judge decides at the beginning of the proceedings, by means of an order which contains no description of the act or its legal qualification or any assessment on the court's part, to accept the declaration of guilt of certain defendants, who thus waive their right to the taking of evidence regarding their guilt, and, subsequently, after the taking of evidence at the main hearing, on the basis of the indictment, then decides the cases of all the defendants?
  - 2.1 Where a decision to accept the declaration of guilt of a co-defendant gives rise to a well-founded doubt regarding the impartiality of the court which accepted that declaration, is the possible disqualification of that court from dealing with the case an appropriate measure to safeguard the rule of the presumption of innocence as required by Article 4 (2) of Directive 2016/343?

3. Are the values of equality and of the rule of law enshrined in Article 2 of the Treaty on European Union, signed in Maastricht on 7 February 1992, as amended by the Treaty of Lisbon, signed in Lisbon on 13 December 2007, the principle of the equality of citizens before judicial authorities under Article 9 of the Treaty on European Union and the general EU-law principle which establishes the right of every person to have his case heard fairly, pursuant to Article 6(3) of the Treaty on European Union, safeguarded in a situation in which a national court against whose decisions there is no right of appeal adopts a decision in a manner inconsistent with an opinion on unification of the interpretation of the law of a national court which has been adopted by that court on the basis of the mandate conferred on it by national legislation to unify the interpretation of the law and other normative acts of general application where that is necessary in order to resolve inconsistencies in case-law or where one chamber of the Supreme Court has departed from a legal opinion contained in a decision of another chamber of the Supreme Court?

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(<sup>1</sup>) OJ 2016 L 65, p. 1.

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**Request for a preliminary ruling from the Grondwettelijk Hof (Belgium) lodged on 22 November 2018 — Anton van Zantbeek VOF; other party: Ministerraad**

**(Case C-725/18)**

(2019/C 44/20)

*Language of the case: Dutch*

**Referring court**

Grondwettelijk Hof

**Parties to the main proceedings**

*Applicant:* Anton van Zantbeek VOF

*Other party:* Ministerraad

**Questions referred**

1. Should Article 56 of the Treaty on the Functioning of the European Union and Article 36 of the Agreement on the European Economic Area of 2 May 1992 be interpreted as precluding national legislation which introduces a tax on stock exchange transactions, as referred to in Articles 120 and 126<sup>2</sup> of the Belgian Wetboek diverse rechten en taken (Code of miscellaneous duties and taxes), and which results in the Belgian issuer of an order becoming liable for that tax in the case where the professional intermediary is established outside Belgium?
2. Should Article 63 of the Treaty on the Functioning of the European Union and Article 40 of the Agreement on the European Economic Area of 2 May 1992 be interpreted as precluding national legislation which introduces a tax on stock exchange transactions, as referred to in Articles 120 and 126<sup>2</sup> of the Belgian Wetboek diverse rechten en taken, and which results in the Belgian issuer of an order becoming liable for that tax in the case where the professional intermediary is established outside Belgium?
3. If, on the basis of the reply to the first or second question referred for a preliminary ruling, the Grondwettelijk Hof were to conclude that the contested articles infringe one or more of the obligations arising from the provisions cited in those questions, could it temporarily continue to enforce the effects of Articles 120 and 126<sup>2</sup> of the Belgian Wetboek diverse rechten en taken in order to prevent legal uncertainty and to enable the legislature to bring those provisions into conformity with those obligations?