

**Party in the main proceedings**

TF

*Other party to the proceedings:* Openbaar Ministerie**Operative part of the judgment**

Article 2(d) of Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors, as amended by Regulation (EU) No 1258/2013 of the European Parliament and of the Council of 20 November 2013,

must be interpreted as meaning that a person who participates, in the context of an illegal activity, in the placing on the market of scheduled substances in the European Union is not an ‘operator’ for the purposes of that provision.

(<sup>1</sup>) OJ C 138, 28.3.2022.

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**Order of the Court (Sixth Chamber) of 7 November 2022 — (requests for a preliminary ruling from the Înalta Curte de Casație și Justiție — Romania) — Criminal proceedings against FX, CS, ND (C-859/19), BR, CS, DT, EU, FV, GW (C-926/19), CD, CLD, GLO, ȘDC, PVV (C-929/19)**

**(Joined Cases C-859/19, C-859/19, C-926/19 and C-929/19, (<sup>1</sup>) FX and Others (Effect of the decisions of a constitutional court III))**

*(References for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Second subparagraph of Article 19(1) TEU — Article 47 of the Charter of Fundamental Rights of the European Union — Fight against corruption — Protection of the European Union’s financial interests — Article 325(1) TFEU — PFI Convention — Decision 2006/928/EC — Criminal proceedings — Decisions of the Curtea Constituțională (Constitutional Court, Romania) concerning the composition of panels hearing cases relating to serious corruption — Duty on national courts to give full effect to decisions of the Curtea Constituțională (Constitutional Court) — Disciplinary liability of judges in the event of non-compliance with such decisions — Power to disapply decisions of the Curtea Constituțională (Constitutional Court) that are inconsistent with EU law — Principle of primacy of EU law)*

(2023/C 104/09)

Language of the case: Romanian

**Referring court**

Înalta Curte de Casație și Justiție

**Criminal proceedings against**

FX, CS, ND (C-859/19), BR, CS, DT, EU, FV, GW (C-926/19), CD, CLD, GLO, ȘDC, PVV (C-929/19)

*Other parties:* Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție (C-859/19, C-926/19 and C-929/19), Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism — Structura Centrală (C-926/19), Parchetul de pe lângă Înalta Curte de Casație și Justiție — Secția pentru Investigarea Infracțiunilor din Justiție (C-926/19), Agenția Națională de Administrare Fiscală (C-926/19 and C-929/19), HX (C-926/19), IY (C-926/19), SC Uranus Junior 2003 SRL (C-926/19), SC Complexul Energetic Oltenia SA (C-929/19)

**Operative part of the order**

1. Article 325(1) TFEU, read in conjunction with Article 2 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests, signed in Brussels on 26 July 1995, and Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption,

are to be interpreted as precluding national rules or a national practice under which judgments in matters of corruption and value added tax fraud, which were not delivered, at first instance, by panels specialised in such matters or, on appeal, by panels all the members of which were selected by drawing lots, are rendered absolutely null and void, such that the cases of corruption and value added tax fraud concerned must, as the case may be further to an extraordinary appeal against final judgments, be re-examined at first and/or second instance, where the application of those national rules or that national practice is capable of giving rise to a systemic risk of acts constituting serious fraud affecting the European Union's financial interests or corruption in general going unpunished. The obligation to ensure that such offences are subject to criminal penalties that are effective and act as a deterrent does not exempt the referring court from verifying the necessary observance of the fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. The requirements arising from the first sentence of the second paragraph of Article 47 of the Charter do not preclude the non-application of such national rules or such a national practice where the latter are capable of giving rise to such a systemic risk of impunity.

2. Article 2 TEU, the second subparagraph of Article 19(1) TEU and Decision 2006/928

are to be interpreted as not precluding national rules or a national practice under which the decisions of the national constitutional court are binding on the ordinary courts, provided that national law guarantees the independence of that constitutional court in relation, in particular, to the legislature and the executive, as required by those provisions. However, those provisions of the EU Treaty and that decision are to be interpreted as precluding national rules under which any failure to comply with the decisions of the national constitutional court by national judges of the ordinary courts can trigger their disciplinary liability.

3. The principle of primacy of EU law is to be interpreted as precluding national rules or a national practice under which national ordinary courts are bound by decisions of the national constitutional court and cannot, by virtue of that fact and without committing a disciplinary offence, disapply, on their own authority, the case-law established in those decisions, even though they are of the view, in the light of a judgment of the Court of Justice, that that case-law is contrary to the second subparagraph of Article 19(1) TEU, Article 325(1) TFEU or Decision 2006/928.

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(<sup>1</sup>) OJ C 201, 15.6.2020.

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**Order of the Court (Ninth Chamber) of 26 October 2022 (request for a preliminary ruling from the Úřad pro přístup k dopravní infrastruktuře — Czech Republic) — RegioJet a.s. v České dráhy a.s.**

(Case C-104/21, (<sup>1</sup>) RegioJet)

*(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure of the Court of Justice — Article 267 TFEU — Concept of ‘court or tribunal’ — Criteria relating to the constitution and function of that body — Exercise of judicial or administrative functions — Directive 2012/34/EU — Articles 55 and 56 — Single national regulatory body for the railway sector — Independent regulatory authority for the sector — Entitlement to act on an ex officio basis — Power to impose penalties — Decisions that are open to challenge before the courts — Inadmissibility of the request for a preliminary ruling)*

(2023/C 104/10)

Language of the case: Czech

**Referring court**

Úřad pro přístup k dopravní infrastruktuře

**Parties to the main proceedings**

Applicant: RegioJet a.s.

Defendant: České dráhy a.s.