

- b) If it applies only to other recipients, can there be a real possibility of distortion if other recipients who are not members of the CSG are able either to apply to join the CSG in question, or to set up their own CSG to obtain similar services, or to obtain equivalent VAT savings by other methods (such as by setting up a branch in the Member State or third state in question).
- c) If it applies only to other providers, is the real possibility of distortion to be assessed by determining whether the CSG is assured of keeping its member's custom, irrespective of the availability of the VAT exemption — and therefore to be assessed by reference to the access of alternative providers to the national market in which the members of the CSG are established? If so, does it matter whether the CSG is assured of keeping its members' custom because they are part of the same corporate group.
- d) Should potential distortion be assessed at a national level in relation to alternative providers in the third state where the CSG is established?
- e) Does the tax authority in the EU which administers the VAT Directive bear an evidential burden to establish the likelihood of distortion?
- f) Is it necessary for the tax authority in the EU to commission specific expert evaluation of the market of the third state where the CSG is established?
- g) Can the presence of a real possibility of distortion be established by the identification of a commercial market in the third state?
3. Can the CSG exemption apply in the circumstances of this case where the members of the CSG are linked to one another by economic, financial or organisational relationships?
4. Can the CSG exemption apply in circumstances where the members have formed a VAT group, which is a single taxable person? Does it make a difference if, KIC, the representative member to whom (as a matter of national law) the services are supplied, is not a member of the CSG? And, if it does make a difference, is this difference eliminated by national law stipulating that the representative member possesses the characteristics and status of the members of the CSG for the purpose of applying the CSG exemption?

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

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**Appeal brought on 1 February 2019 by the Republic of Lithuania against the judgment of the General Court (Fourth Chamber) delivered on 22 November 2018 in Case T-508/15 Republic of Lithuania v European Commission**

**(Case C-79/19 P)**

(2019/C 131/32)

*Language of the case: Lithuanian*

**Parties**

*Appellant:* Republic of Lithuania (represented by: R. Krasuckaitė)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claims that the Court should:

— set aside the judgment of the General Court in Case T-508/15 (<sup>1</sup>) ('the judgment under appeal') in so far as, in that judgment, the General Court dismissed the action for annulment of European Commission Implementing Decision (EU) 2015/1119 of 22 June 2015;

- annul European Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 <sup>(2)</sup> or refer the judgment under appeal back to the General Court for review;
- order the European Commission to pay the costs.

### Grounds of appeal and main arguments

The Republic of Lithuania seeks annulment of the judgment of the General Court in Case T-508/15 on the following legal basis:

- (1) The General Court erred in law in finding, in paragraph 83 of the judgment under appeal, that the derogation provided for in Article 33m(1) of Regulation No 1257/1999 <sup>(3)</sup> relates only to the age of the persons transferring the farm, since that provision is clearly related to the milk quota as evidence of commercial agricultural production.
- (2) The General Court also distorted the facts in paragraphs 74 to 79 of the judgment under appeal by concluding that the Government of the Republic of Lithuania had failed to demonstrate that holding a milk quota meant that the applicant was engaged in commercial agricultural production, which in essence did not correspond to the documents of the case submitted to it.

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<sup>(1)</sup> Judgment of the General Court (Fourth Chamber) of 22 November 2018, *Republic of Lithuania v European Commission*, T-508/15 (EU:T:2018:828).

<sup>(2)</sup> (OJ 2015 L 182, p. 39)

<sup>(3)</sup> Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80).

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## Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 8 February 2019 — Viasat UK Ltd, Viasat Inc. v Institut belge des services postaux et des télécommunications (IBPT)

(Case C-100/19)

(2019/C 131/33)

Language of the case: French

### Referring court

Cour d'appel de Bruxelles

### Parties to the main proceedings

*Applicants:* Viasat UK Ltd, Viasat Inc.

*Defendant:* Institut belge des services postaux et des télécommunications (IBPT)

*Interveners:* Inmarsat Ventures Ltd, Eutelsat SA

### Questions referred

1. Are Article 4(1)(c)(ii), Article 7(1) and Article 8(1) of Decision No 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services (MSS) <sup>(1)</sup> to be interpreted as meaning that, where it is established that the operator selected in accordance with Title II of that decision has not provided mobile satellite services through a mobile satellite system by the deadline set in Article 4(1)(c)(ii) of the decision, the competent authorities of the Member States referred to in Article 8(1) of the decision **must** refuse to grant authorisations allowing that operator to deploy complementary ground components on the ground that that operator has failed to honour the commitment given in its application?