

3. Is legislation which does not distinguish between an administrative offence (Article 127(1) of the Zakon za markite i geografskite oznacheniya (Law on trade marks and geographical indications; 'the ZMGO') currently in force and Article 81(1) of the ZMGO in force in 2016), the criminal offence under Article 172b(1) of the NK and, if the first question is answered in the negative, the criminal offence under Article 172b(2) of the NK compatible with the principle of legality of criminal offences, as enshrined in Article 49 of the Charter of Fundamental Rights of the European Union?
4. Are the penalties provided for in Article 172b(2) of the NK (custodial sentence of 5 to 8 years and a fine of BGN 5 000 to 8 000) consistent with the principle established in Article 49(3) of the Charter of Fundamental Rights of the European Union (the severity of penalties must not be disproportionate to the criminal offence)?

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<sup>(1)</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).

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**Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 29 October 2021 — IM GESTÃO DE ATIVOS — SOCIEDADE GESTORA DE ORGANISMOS DE INVESTIMENTO COLETIVO, SA and Others v Autoridade Tributária e Aduaneira**

**(Case C-656/21)**

(2022/C 37/23)

*Language of the case: Portuguese*

**Referring court**

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

**Parties to the main proceedings**

*Applicants:* IM GESTÃO DE ATIVOS — SOCIEDADE GESTORA DE ORGANISMOS DE INVESTIMENTO COLETIVO, SA and Others

*Defendant:* Autoridade Tributária e Aduaneira

**Questions referred**

1. Does Article 5(2) of Directive 2008/7/EC <sup>(1)</sup> preclude national legislation, such as item 17(3)(4) of the Código do Imposto do Selo (Stamp Duty Code), under which stamp duty is levied on fees which banks charge open-ended securities investment fund management companies for gaining new subscriptions for units, that is, for obtaining new inflows of capital for the investment funds in the form of new subscriptions for units issued by the funds?
2. Does Article 5(2) of Directive 2008/7/EC preclude national legislation under which stamp duty is levied on the management fees charged to open-ended securities investment funds by management companies, in so far as those management fees include the fees which the banks charge the fund management companies for the aforementioned activity?

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<sup>(1)</sup> Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital (OJ 2008 L 46, p. 11).