

Questions referred

1. Are natural and legal persons who are involved in the placing on the market of scheduled substances in such a way that that involvement constitutes an offence punishable under Article 2(1)(d) of Framework Decision 2004/757⁽¹⁾ to be regarded as ‘operators’ for the purposes of Article 2(d) of Regulation No 273/2004?⁽²⁾

If the answer to this first question is in the affirmative:

2. (a) Does the conduct of the operator referred to in Question 1 constitute a ‘circumstance’ for the purposes of Article 8(1) of Regulation No 273/2004?
- (b) Does conduct such as the receipt, transport and storage of scheduled substances constitute a ‘circumstance’ for the purposes of Article 8(1) of Regulation No 273/2004 if that conduct does not take place with the intention of supplying those substances to a third party?

⁽¹⁾ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ 2004 L 335, p. 8).

⁽²⁾ Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors (OJ 2004 L 47, p. 1).

**Request for a preliminary ruling from the Rechtbank Noord-Holland zittingsplaats Haarlem
(Netherlands) lodged on 21 December 2021 — Nokia Solutions and Networks Oy v Inspecteur van
de Belastingdienst/Douane, kantoor Eindhoven**

(Case C-809/21)

(2022/C 138/16)

Language of the case: Dutch

Referring court

Rechtbank Noord-Holland zittingsplaats Haarlem

Parties to the main proceedings

Appellant: Nokia Solutions and Networks Oy

Respondent: Inspecteur van de Belastingdienst/Douane, kantoor Eindhoven

Question referred

Is there an infringement of EU law — which is a condition for entitlement to interest under EU law as developed by the Court of Justice — where a Member State authority, on the basis of a post-importation control of a customs declaration submitted after 1 May 2016, imposes a duty in breach of legally valid provisions of EU law and a Member State court makes a finding of that infringement of EU law?

**Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on
28 December 2021 — Vinal AD v Direktor na Agentsia ‘Mitnitsi’**

(Case C-820/21)

(2022/C 138/17)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Vinal AD

Defendant: Direktor na Agentsia ‘Mitnitsi’

Questions referred

How is Article 16(1) of Directive 2008/118/EC⁽¹⁾ to be interpreted in so far as it provides that authorisation to open and operate a tax warehouse is subject to conditions that the authorities are entitled to lay down for the purpose of preventing any possible evasion or abuse; what content must those conditions have in order to achieve the objectives of preventing evasion or abuse?

How is the principle of non-discrimination for the purposes of recital 10 of Directive 2008/118/EC to be interpreted?

How are those provisions to be interpreted, and are they to be interpreted as precluding national legislation, such as that in Article 53(1)(3) of the ZADS, in conjunction with Article 47(1)(5) thereof, in so far as the latter provisions provide for the unconditional withdrawal of authorisation for the future, which takes place indefinitely and without any restriction as to time, in addition to a penalty already imposed for the same act?

⁽¹⁾ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ 2009 L 9, p. 12).

Request for a preliminary ruling from the Hessischer Verwaltungsgerichtshof (Germany) lodged on 24 December 2021 — TE, RU, represented for legal purposes by TE v Stadt Frankfurt am Main

(Case C-829/21)

(2022/C 138/18)

Language of the case: German

Referring court

Hessischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicants: TE, RU, represented for legal purposes by TE

Defendant: Stadt Frankfurt am Main

Questions referred

1. Is Paragraph 38a(1) of the Aufenthaltsgesetz (Law on residence; 'the AufenthG'), which, under national law, must be interpreted as meaning that an onward-migrating long-term resident must also have long-term resident status in the first Member State at the time of renewal of his or her residence permit, consistent with the provisions of Article 14 et seq. of Directive 2003/109/EC,⁽¹⁾ which merely provide that a long-term resident has the right to reside in the territory of Member States other than the one which granted him/her the long-term residence status, for a period exceeding three months, provided that the other conditions set out in Chapter III of the directive are met?
2. When deciding on an application for renewal under Paragraph 38a(1) of the AufenthG, is the Ausländerbehörde (authority responsible for foreign nationals) entitled under the provisions of Article 14 et seq. of Directive 2003/109/EC, where the other requirements for a temporary renewal are met and the foreign national has, in particular, stable and regular resources, to establish — in such a way as to deprive that foreign national of his or her rights — that he or she has in the meantime, that is to say, after moving to the second Member State, lost his or her status in the first Member State in accordance with the second subparagraph of Article 9(4) of Directive 2003/109/EC? Is the relevant point in time for that decision the date of the most recent decision of an authority or court?
3. If Questions 1 and 2 are answered in the negative:

Does the long-term resident bear the burden of proving that his or her right of residence as a long-term resident in the first Member State has not expired?

If that question is answered in the negative, is a national court or authority entitled to review whether the residence permit granted to the long-term resident for an unlimited period is no longer valid, or would this be contrary to the principle of mutual recognition of administrative decisions under EU law?